



SCOTTSDALE PLANNING COMMISSION
STUDY SESSION AGENDA
CITY HALL KIVA
3939 N DRINKWATER BLVD
SCOTTSDALE, ARIZONA
FEBRUARY 11, 2003
3:45 PM

1. CALL TO ORDER
2. ADMINISTRATIVE REPORT – RANDY GRANT
3. HISTORIC PRESERVATION PROGRAM SUMMARY AND RECOMMENDED INCENTIVES FOR HISTORIC PROPERTY OWNERS
4. REVIEW OF FEBRUARY 11, 2003 AGENDA
5. REVIEW OF FEBRUARY 26, 2003 TENTATIVE AGENDA
6. ADJOURNMENT



DRAFT
SUBJECT TO CHANGE
TENTATIVE AGENDA
SCOTTSDALE PLANNING COMMISSION
KIVA - CITY HALL
3939 N. DRINKWATER BOULEVARD
FEBRUARY 26, 2003
5:00 P.M.

1-UP-2003

(Pure Fitness Use Permit) request by Mittlesteadt & Cooper Associates Ltd, applicant, Shea East LLC, owner, for a conditional use permit for a health studio in a 25,000 +/-sq ft tenant space of a building located at 7330 E Shea Blvd, Suites 101 & 102 with Central Business District (C-2) zoning. Staff contact person is Kira Wauwie AICP, 480-312-7061. **Applicant contact person is Karen Betancourt, 602-389-4245.**

Comments: This request is for a conditional use permit to allow for a health studio.

11-TA-2000#2

(Text Amendment/ESLO II) request by City of Scottsdale, applicant, for a text amendment to amend Ordinance 455 (Zoning Ordinance) Article III. Definitions.; Section 3.100., General.; Article VI. Supplementary Districts.; Section 6.1010. Environmentally Sensitive Lands Ordinance (ESLO).; Section 6.1011. Purpose.; Section 6.1020. Applicability of Regulations.; Section 6.1021. Applicable Districts and Conditions.; Section 6.1050. Intensity of Development.; Section 6.1060. Open Space Requirements.; Section 6.1070. Design Standards.; Section 6.1071. Design Guidelines.; Section 6.1083. Amended Development Standards.; Section 6.1090. ESL Submittal Requirements.; Section 6.1091. All Applications.; Section 6.1110. Appeals. This covers approximately 134 square miles of desert and mountain areas of Scottsdale and is located north and east of the Central Arizona Project (CAP) Canal. Staff contact person is Jerry Stabley, 480-312-7872. **Applicant contact person is Jerry Stabley, 480-312-7872.**

Comments: To update the City's Environmentally Sensitive Lands Ordinance (ESLO-2).

7-ZN-2002#2

(Hotel Valley Ho) request by City of Scottsdale, applicant, Msr Properties LLC, owner, for approval of amended development standards for building height, front yard parking setback and frontage open space for the Hotel Valley Ho (8.86 +/- acre parcel) located at 6850 E Main Street with Highway Commercial, Historic Property (C-3 HP) zoning. Staff contact person is Kira Wauwie AICP, 480-312-7061. **Applicant contact person is Ken Allen, (480) 990-2800.**

Comments: This request is for the construction of 4 additional stories onto an existing 2-story hotel.

11-AB-2002

(Pueblo PoQuito Abandonment) request by Earl Curley & Lagarde PC, applicant, James and Cynthia Jaskie & Saddle Rock Ranch LLC, owners, to abandon a certain portion of the north 10 feet public right-of-way for Mountain View Road, a 20 feet wide section of 123rd Street public right-of-way including a 46 feet radius cul-de-sac, and a 33 feet General Land Office patent roadway easement along the 123rd Street alignment. 123rd Street will change from a public to a private street. Staff contact person is Pete Deeley, 480-312-2554. **Applicant contact person is Lynne Lagarde, 602 265-0094.**

Comments: This request for abandonment is the result of agreement by the two adjacent property owners.

A COPY OF A FULL AGENDA, INCLUDING ITEMS CONTINUED FROM PREVIOUS MEETINGS IS AVAILABLE AT LEAST 24 HOURS PRIOR TO THE MEETING AT THE FOLLOWING LOCATIONS:

Police Department, 9065 East Via Linda
City Hall, 3939 N. Drinkwater Boulevard
El Dorado Park & Recreation Center, 2311 N. Miller Road

ALL INTERESTED PARTIES ARE INVITED TO ATTEND.

For additional information click on the link to 'Projects in the Public Hearing Process' at:
<http://www.ScottsdaleAZ.gov/projects>.



Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting the City Clerk's Office at 480-312-2412. Requests should be made as early as possible to allow time to arrange accommodation.



AGENDA
SCOTTSDALE PLANNING COMMISSION
KIVA - CITY HALL
3939 N. DRINKWATER BOULEVARD
FEBRUARY 11, 2003
5:00 P.M.

ROLL CALL

MINUTES REVIEW AND APPROVAL

1. December 11, 2002
2. December 18, 2002
3. January 22, 2003

INITIATION

4. **47-PA-2003 (Downtown Overlay and Related Issue Text Amendment)** request by City of Scottsdale, applicant, to initiate a text amendment to create a Downtown Overlay and to address issues related to live entertainment and drive through establishments. **Staff Contact is Jerry Stabley, 480-312-7872.**

CONTINUANCES

5. **16-UP-1997#2** (Danny's Car Wash - Shea) request by Deutsch Associates, applicant, Pinnacle & Pima LLC, owner, to amend an existing use permit for an automated carwash on a 2.5+/- acre parcel located at 7373 E Shea Boulevard with Central Business District (C-2) zoning. **Continued to March 25, 2003.**
6. **17-UP-1997#2** (Danny's Car Wash - Shea) request by Deutsch Associates, applicant, Pinnacle & Pima LLC, owner, to amend an existing use permit for a service station on a 2.5+/- acre parcel located at 7373 E Shea Boulevard with Central Business District (C-2) zoning. **Continued to March 25, 2003.**
7. **11-AB-2002** (Pueblo PoQuito Abandonment) request by Earl Curley & Lagarde PC, applicant, Multiple owners, for an abandonment of a 10 feet wide public right-of-way located along the north side of Mountain View Road and a 18 feet wide General Land Office patent roadway located along the west side of 123rd Street. **Continued to February 26, 2003.**

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EXPEDITED AGENDA

8. 28-UP-2002 (Alltel Communications At Troon North) request by Campbell A & Z LLC, applicant, Desert Crown III Homeowners Association, owner, for a conditional use permit for a Personal wireless service facility in a small portion of Tract A within the Desert Crown III subdivision which is located at the northeast corner of Dynamite Blvd and N 114th Street with Single Family Residential, Environmentally Sensitive District (R1-18, ESL) zoning. Staff contact person is Bill Verschuren, 480-312-7734. **Applicant contact person is Michael Campbell, 602-616-8396.**

Comments: This request is for use permit to allow a wireless communications facility inside a stealth saguaro cactus.

9. 29-UP-2002 (Edufit) request by Titus, Brueckner & Berry, PC, applicant, Lamb 4PS LLC, owner, for a conditional use permit for a health studio within one suite of the existing shopping center located at the northeast corner of Scottsdale Road and Pinnacle Peak Road (23425 N Scottsdale Road) with Central Business District (C-2) zoning. Staff contact person is Bill Verschuren, 480-312-7734. **Applicant contact person is Matthew Levine, 480-483-9600.**

Comments: This request is for a health studio.

REGULAR AGENDA

10. 29-ZN-2000#2 (Whisper Rock) request by Tornow Design Associates, applicant, C.T.A.J. Investments, LLC, owner, to rezone from Resort/Townhouse Residential, Environmentally Sensitive Lands (R-4R ESL), Single Family Residential, Environmentally Sensitive Lands (R1-43 ESL), Single Family Residential, Environmentally Sensitive Lands (R1-130 ESL) to Resort/Townhouse Residential, Environmentally Sensitive Lands, Planned Community District (R-4R, ESL, PCD), Single Family Residential, Environmentally Sensitive Lands, Planned Community District (R1-43, ESL, PCD), Single Family Residential, Environmentally Sensitive Lands, Planned Community District (R1-130, ESL, PCD) and to amend development standards of the Resort/Townhouse Residential (R-4R) district and to revise the approved Development Agreement on a 400 +/- acre parcel located near Hayden Road and Ashler Hills Road (extended). Staff contact person is Kira Wauwie AICP, 480-312-7061. **Applicant contact person is Roger Tornow, 480-607-5090.**

Comments: This request is for revisions to the approved golf club member cottages planning area.

11. 4-UP-1999#3 (Whisper Rock) request by Tornow Design Associates, applicant, C.T.A.J. Investments, LLC, owner, for a 20-acre expansion to an approved conditional use permit for a golf course on a 400+/- acre parcel located near Hayden Road and Ashler Hills Road (extended). Staff contact person is Kira Wauwie AICP, 480-312-7061. **Applicant contact person is Roger Tornow, 480-607-5090.**

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Comments: This request is for an expansion of the golf course to include additional land area (+/-9.5 acres).

12. 25-ZN-2002 (Foothills Overlay) request by City of Scottsdale, applicant, to apply Foothills Overlay (FO) zoning for 10+/- square miles known as the Desert Foothills area, generally located between 56th and 96th Streets, from Happy Valley to Ashler Hills Roads. Staff contact person is Jerry Stabley, 480-312-7872. **Applicant contact person is Kira Wauwie, 480-312-7061.**

Comments: This request will add the Foothills Overlay to the existing zoning on the subject properties to protect the rural character of the area.

WRITTEN COMMUNICATION

ADJOURNMENT

David Gulino, Chairman
Charles Lotzar, Vice Chairman
Tony Nelssen
James Heitel

Steve Steinberg
Kevin Osterman
Kay Henry

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**DRAFT MINUTES
SCOTTSDALE PLANNING COMMISSION
KIVA – CITY HALL
3939 N. DRINKWATER BOULEVARD
DECEMBER 11, 2002**

PRESENT: David Gulino, Chairman
Charles Lotzar, Vice Chairman
James Heitel, Commissioner
Kay Henry, Commissioner
Tony Nelssen, Commissioner
Steve Steinberg, Commissioner

ABSENT: Kevin Osterman, Commissioner

STAFF: Jon Arnhold
Pat Boomsma
Tim Curtis
Raun Keagy
Bill Peifer
Don Meserve
Keith Niederer
Jerry Stabley
Kira Wauwie
Randy Grant

CALL TO ORDER

The regular meeting of the Scottsdale Planning Commission was called to order by Chairman Gulino at 5:10 p.m.

ROLL CALL

A formal roll call confirmed members present as stated above.

MINUTES APPROVAL

1. November 13, 2002
2. November 20, 2002

COMMISSIONER STEIN MADE A MOTION TO APPROVE THE NOVEMBER 13, 2002 AND NOVEMBER 20 MINUTES AS PRESENTED. SECOND BY COMMISSIONER HENRY

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).

OPENING STATEMENT

COMMISSIONER HENRY read the opening statement which describes the role of the Planning Commission and the procedures used in conducting this meeting.

AMENDING THE COMMISSION BY-LAWS

3. Amending the Planning Commission by-laws to meet on Tuesday evenings (rather than Wednesdays) starting the first hearing in January 2003.

MR. NIEDERER stated the Planning Development Services is requesting changing the day of Planning Commission hearings from Wednesday evenings to Tuesday evenings at 5:00 PM. The reason behind this request is to have Tuesday consistently as the day of the week where planning and development issues are heard, whether it's during a City Council meeting or a Planning Commission meeting.

To accomplish this goal, Page 2, Section 201 of the Planning Commission By-laws, under Regular Meetings will need to be changed from Wednesdays to Tuesdays.

COMMISSIONER HENRY MOVED TO AMEND THE COMMISSION BYLAWS CHANGING THE DAY OF PLANNING COMMISSION HEARING FROM WEDNESDAY EVENINGS TO TUESDAY EVENINGS STARTING WITH THE FIRST HEARING IN JANUARY. SECOND BY COMMISSIONER STEIN.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).

INITIATION

3. **614-PA-2002 (Sign Ordinance Text Amendment Initiation)** request by City of Scottsdale, applicant, to initiate a text amendment to Article VIII., Sign Requirements., of the City of Scottsdale Zoning Ordinance (No. 455).

MR. ARNHOLD presented this case as per the project coordination packet. Staff recommends the Planning Commission initiate this text amendment.

COMMISSIONER NELSEN stated he has long awaited this moment that they would get revisions to the sign ordinance. He further stated he is one of the volunteers that have moved hundreds of illegal signs. He remarked political signs are put up too early meaning they are allowed to go up 60 days and they go up 90 days. When the signs come down, they leave the poles. He further remarked this is a badly needed amendment and he appreciates staffs' effort.

COMMISSIONER HENRY MOVED TO FORWARD CASE 614-PA-TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER HEITEL.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).

CONTINUANCES

5. **25-UP-2002 (City of Scottsdale Well No. 123)** request by Stanley Consultants Inc, applicant, City of Scottsdale, owner, for a conditional use permit for a city well (Site No. 123) on a .17 +/- acre parcel located at the northeast corner of Scottsdale Road and East Princess Boulevard. Staff contact person is Bill Verschuren, 480-312-7734. **THIS CASE IS CONTINUED TO JANUARY 14, 2003.**
6. **21-ZN-2002 (The Legends at Toscana)** request by Legend Development, applicant, Collin Thorstenson, owner, to rezone from Single Family Residential (R1-35) to Single Family Residential, Planned Residential District (R1-7, PRD) including amended development standards on a 10 +/- acre parcel located at 12855 N 94th Street. Staff contact person is Tim Curtis, 480-312-4210. **THIS CASE IS CONTINUED TO JANUARY 14, 2003.**
7. **29-ZN-2000#2 (Whisper Rock)** request by Tornow Design Associates, applicant, Grayhawk Development, owner, to revise the approved Amended Development Standards for Resort/Townhouse Residential, Environmentally Sensitive Lands (R4-R ESL) and to revise the approved Development Agreement on a 10 +/- acre parcel located near Hayden Road and Ashler Hills Road (extended). Staff contact person is Kira Wauwie AICP, 480-312-7061. **THIS CASE IS CONTINUED TO FEBRUARY 11, 2003.**
8. **4-UP-1999#3 (Whisper Rock)** request by Tornow Design Associates, applicant, Grayhawk Development, owner for a revision to an approved conditional use permit for a golf course on a 330 +/- acre parcel located near Hayden Road and Ashler Hills Road. Staff contact person is Kira Wauwie AICP, 480-312-7061. **THIS CASE IS CONTINUED TO FEBRUARY 11, 2003.**

COMMISSIONER HEITEL MOVED TO CONTINUE CASE 25-UP-2002 TO THE JANUARY 14, 2003 PLANNING COMMISSION MEETING. CASES 29-ZN-2000#2 AND 4-UP-1999#3 TO THE FEBRUARY 11, 2003 PLANNING COMMISSION MEETING. CASE 21-ZN-2002 TO THE JANUARY 14, 2003 PLANNING COMMISSION MEETING. SECOND BY COMMISSIONER VICE CHAIRMAN LOTZAR.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).

REGULAR AGENDA

9. **2-MP-2002#2 (Chaparral Park Expansion)** request by City of Scottsdale, applicant/owner, for approval of a Municipal Use Master Site Plan for the Chaparral Park extension, including modified off-leash area and 2 new lighted sports fields. The subject property is 20 +/- acres located on the north and south sides of McDonald Drive, east of Hayden Road, with Open Space (O-S) zoning.

MR. WARD presented this case as per the project coordination packet. He reported there was one stipulation modification handed out at the study session. Staff recommends approval, subject to the attached stipulations.

COMMISSIONER HEITEL inquired if staff had considered any security measures at the xeriscape demonstration area. Mr. Ward stated there would be some basic level of lighting.

COMMISSIONER STEIN inquired if the dog area would be well secured and separate from the other areas. Mr. Ward replied in the affirmative. A fenced in secure area has its own lighting system that would go off at 10:30 PM. Commissioner Stein inquired if staff had received any concerns from the neighbors regarding the Dog Park. Mr. Ward replied they have not received any objections to this proposal.

COMMISSIONER NELSEN stated he is glad to see this project finally come to fruition. He further stated in the beginning the Dog Park was a highly contentious issue but this seems to be a suitable solution. He inquired if the big dogs would be separated from the smaller dogs. Mr. Ward replied the dog areas would be broken up into two zones aggressive and passive zones.

COMMISSIONER NELSEN inquired if the lights would be shielded to eliminate the glare so that the bulbs would not be visible. Mr. Ward replied the lights would be shielded. They will be using the highest quality available.

COMMISSIONER HEITEL stated he was glad to see this plan because it is a badly needed amenity in the area and an improvement to Chaparral Park.

VICE CHAIRMAN LOTZAR inquired if the two ball fields would be used for little league. Gary Myers, Parks and Recreation Department, stated they would limit them to softball not baseball because they have the concern of the baseball going over the fence. He further stated the four ball fields to the south are being reconfigured and there will be little league and other sports at those fields to the south. Vice Chairman Lotzar stated he is involved with little league and there are not enough fields to play on so consequently the kids are playing little league until 10 o'clock at night on school nights. He inquired if those softball fields would be used for kids' softball or adult softball. Mr. Myers replied adult softball and soccer.

Vice Chairman Lotzar remarked it seems there are substantially more folks with young kids that want to play little league than there are adult softball players. He further stated he would like to see the property to the north utilized. Mr. Peifer stated the area to the north would be used for the important function to serve as the irrigation for the roughly 17 acres of turf to the south. He further stated without putting additional parking to the north there is not much more than passive activity that would work there. Vice Chairman Lotzar stated he is suggesting another function so they might need to find some additional land. He further stated he is not asking them to build another structure to the north. He is thinking there is an underpass that can be utilized for the dog people going from their cars here in the dog area, get to the north, and put that property to a very gentle use. He noted he is hopeful in doing that they can free up some property on the south side and put it to use for at least one or more little league fields as opposed to two

adult softball fields. Mr. Myers stated two little leagues will be created to the south with the upgrades to the facility. Mr. Layman provided an overview of how the fields would be utilized for little league. Vice Chairman Lotzar inquired how many little league fields would be available. Mr. Laymen stated during the little league season there would be four prior to the season there would be two fields that the little league never had before to utilize because the softball would be played on the two new fields.

Vice Chairman Lotzar stated he would like to see improvements made to the plan. He further stated he would like to take one adult softball field and turn it into two little league fields if there is adequate land available to do that. He remarked he sees so many kids that have the desire to use the fields and not the ability. There is not access to the fields because of the competing uses with the adult softball. He further remarked this is a big opportunity that should be taken advantage of by our group at this time.

COMMISSIONER HENRY inquired about the dog fountain stage. Mr. Peifer stated it is an activity area where the dogs can play in the water.

Commissioner Henry inquired about the use of the 4.7 acres north of McDonald. Mr. Peifer stated it would be used as a passive recreation area where people could stop and sit down at the lake.

Commissioner Henry stated this plan is much better than what the Commission saw last April.

COMMISSIONER HEITEL inquired if it would have been appropriate to have shown different alternatives for the ball fields and dog play areas as opposed to the one plan before them. Mr. Peifer replied there have been many alternative designs. They have tried to get additional ball fields in. There is an important consideration with regards to the flood plain because there are restrictions on what can be put in. There has been a lot of consideration given to alternative plans.

COMMISSIONER NELSEN requested additional information regarding how the ball fields would be utilized. Mr. Layman provided a brief overview regarding how the ball fields would be utilized.

VICE CHAIRMAN LOTZAR stated the dimensions of the fields are not the same so they can't just transfer the use to the children, which he felt is a better use.

CHAIRMAN GULINO inquired if the irrigation lake is already plumbed into the irrigation system on the south side of McDonald. Mr. Peifer stated it is existing now. They are evaluating the system because there are a lot of leakage issues that need to be resolved. Chairman Gulino inquired if there was enough salvageable to merit keeping that lake in that location. Mr. Peifer replied no other than it is a good passive use. Chairman Gulino stated regarding access is the traffic signal on McDonald that exists at the driveway out of this area are there plans for it to be removed. Mr. Peifer stated they are proposing that it stay. It would be an access point only for water treatment deliveries. Chairman Gulino inquired how the traffic volumes coming from the neighborhood to the north how do those impact the warrants for that signal. Mr. Brown stated the use coming from the south will be just three or four trips a day from the water

treatment plant so it would virtually have no impact on the signal. Chairman Gulino stated he is under the impression if there is any need for that signal he is under the impression it is coming from the neighborhood to the north. Mr. Brown replied that is correct. Chairman Gulino stated if there is not enough traffic to warrant that signal he would like to see it go away. Mr. Brown stated he felt there was enough traffic to justify keeping the signal.

Chairman Gulino inquired if the south driveway and Starlight Way intersection on Hayden Road warrants having a signal. Mr. Brown stated they don't expect that warrant a signal because there will not be enough volume. He further stated if that area becomes very popular the Starlight Way residents could request a signal there or the dog park users could make that request.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

JANE VAHLE, 1650 N. Pima Road, stated she is glad they decided to go with the rotating theme for the Dog Park so hopefully they can keep the grass green all year around. She further stated the dead grass can be a problem to the people who have breathing problems. She reported it is important to make sure they have an area for the passive and aggressive dogs. She further reported that she felt they needed a stop light at Starlight. She noted they should keep the Dog Park open until 11:00 PM the same as the rest of the park. She further noted the dog park is important for people with dogs in the City to allow them to have a place to run free.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

VICE CHAIRMAN LOTZAR reported that he personally wanted to be more involved in how this park was developed and had asked to and was not. He further reported he felt there was still room for improvement. He stated he would be in favor of two alternatives:

- 1) Would be to continue this case for some period of time and come back and deal with the totality of Chaparral Park uses with respect particularly to different youth sport uses versus adult sports uses for better comfort in the matching of the demand and use.
- 2) Would be to move forward and take the two ball fields that they have laid out as well as the buffer and call that a sports area and then require that component come back with some demonstration of demands versus use so that we could afford the folks that have interest here the ability to express what the intended result should be as opposed to just adopting the two adult fields for soft ball.

COMMISSIONER NELSEN remarked that he spent a considerable amount of time on the Parks and Recreation Commission and it was his experience that they don't build facilities when they are not needed whether it is adult softball or little league. The bottom line is that there are not enough facilities for all of the park users. He requested staff provide information on how many adult users that do not have access to the facilities verses little league players. He stated the fields should be designed so adults and kids can use them. Mr. Layman provided information on how many adult and little league teams they turn away. He noted the adult softball field has a soccer overlay that

can be put on the field. He further noted there is nothing to prevent them from putting smaller fences on them and using them for little league.

Commissioner Nelssen stated the Dog Park is a highly used important facility and one that we have darn few of. He further stated he would not support holding up this plan for one minute.

COMMISSIONER HEITEL stated that no one likes to hold up projects that are sorely needed but he would not mind seeing a short delay that would allow Commissioner Lotzar to get with the planners and ensure the space is properly utilized. He further stated he would not encourage reducing the dog space because it gets tremendous use.

COMMISSIONER HENRY stated she read through the minutes of the April 24th meeting and at that time they talked about the ball fields but they did not identify what type of ball would be played whether it would be adult softball or little league. She inquired if that was something new that was decided or was that the plan back in April. Mr. Myers stated they did not clarify that earlier because multiple teams use it. Through this dialogue, they thought adult softball was really needed and would be appropriate. Mr. Laymen stated they could call them ball fields and staff could work to refine them further. Commissioner Henry remarked it would have been nice for the Commission to have seen some statistics reflecting the need.

CHAIRMAN GULINO stated he would recommend that they add an additional stipulation when this project goes before the DR Board he would like to see specific analysis on the need for the traffic signal at 82nd and McDonald. The objective would be to justify the need for the signal and if it is not needed make a provision to remove it. He further stated he would like another stipulation to justify what type of sports area is appropriate. This does not need to be brought back to the Planning Commission this issue could be discussed at the DR Board level or brought back to the Parks and Recreation Commission to resolve the supply and demand issue regarding adult sports verses youth sports.

VICE CHAIRMAN LOTZAR MOVED TO CONTINUE CASE 2-MP-2002#2 TO THE JANUARY 14, 2002 PLANNING COMMISSION MEETING.

Vice Chairman Lotzar stated in so doing he would personally make sure they get the information with respect to the proposed uses and gain comfort with the actual uses for the sports fields.

SECOND BY COMMISSIONER STEINBERG.

COMMISSIONER NELSEN stated he would not support the motion. Maybe it is because he spent time on the Parks and Recreation Commission and with the park staff. He remarked the Commission would just be wasting time by delaying this process with a continuance. This has been well studied by the Parks and Recreation Commission and the park staff.

COMMISSIONER HEITEL stated he appreciates Commissioner Nelssen's comments and he was fortunate to have been able to have spent a lot of time in the process. He further stated he did not think 30 days would be an undue burden on the process.

CHAIRMAN GULINO stated he supports this plan and 30 days in the big picture would not have a severe impact on the process and allow them to take the time to resolve the last minute issues, which is not unreasonable so he will support the continuance.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ONE (1) WITH COMMISSIONER NELSEN DISSENTING.

CHAIRMAN GULINO announced there was a TV set up outside on the east side of the building for anyone that cares to go out there and track the progress of the meeting.

10. **17-ZN-2002 (Valley National Bank)** request by City of Scottsdale, applicant, Globe Corporation, owner, to rezone from Central Business District (C-2) to Central Business District, Historic Property (C-2 HP) on a .37 +/- acre parcel located at 4031 N Scottsdale Road.

MS. ABELE presented this case as per the project coordination packet. She stated the historic Preservation Commission held a public hearing on this case on November 14, 2002. The Commission voted unanimously (7-0) to make a recommendation to the Planning Commission and City Council to approve the HP overlay zoning, Case 17-ZN-2002, for the Valley National Bank. Staff recommends that the HP zoning overlay initiated by the Historic Preservation Commission for the Valley National Bank at 4031 N. Scottsdale Road be adopted to celebrate its historic significance and its important contribution to the theme of Scottsdale's development as an arts colony tourist destination.

COMMISSIONER NELSEN inquired of the two dozen buildings in the downtown the HPC identified as significant buildings. How many would be appropriate for the HP overlay zoning. Ms. Abele replied they plan to bring five to six per year over the next two to three years. Commissioner Nelssen inquired if there was any reason why they are not all done together so that one property owner does not feel singled out. Ms. Abele stated they only bring one at a time to ensure that they have done all of the proper steps and to give staff time to prepare the reports necessary for the public meetings.

Commissioner Nelssen inquired if Ms. Abele would like to respond to the letter they received from Arnold Roy that indicates why he felt this building should not be considered for the HP overlay. Ms. Abele replied she was not presented with a copy of that letter.

VICE CHAIRMAN LOTZAR stated he felt staff did a great job as far as the prior cases that came before the Planning Commission and they approved all of those cases at your suggestion. He further stated one of the things that was common in all of those cases was that the property owners were in favor of your efforts and in essence were arm in arm with you. He remarked it is his understanding that this case is not the same. He inquired why should they take action along those lines that is adverse to the desires of the property owner. Ms. Abele provided background information on the process that has

occurred. She stated each property is selected by objective criteria. She further stated this process is legally sound.

Vice Chairman Lotzar inquired if it was fair to say that in addition to the time involved in getting permission to demolish this building if the owner wants to change the façade of this building it is prohibited. Ms. Abele stated that is not correct. The owner can make exterior changes to the building but they would have to get approval from the Historic Preservation Commission as opposed to the Development Review Board.

Vice Chairman Lotzar inquired what part of the presentation should they be focusing on to support this case. Ms. Abele stated the Commission should determine if they find the property meets the criteria for historical significance.

COMMISSIONER HEITEL stated he is concerned that the owner of this building does not want the HP designation. Ms. Abele stated the Historic Preservation Commission has identified significant historic buildings to preserve our past because these are properties the community cares about.

Commissioner Heitel stated he felt the designation imposes a burden on the property owner to delay its plans. Ms. Abele stated she does not believe there is any evidence of that.

Commissioner Heitel stated he does not understand why the City is imposing something on the property owner when there is not plans to demolish this building.

COMMISSIONER STEINBERG inquired if the architects ever envisioned the latest additions that went onto this building as part of the original plan. Ms. Abele stated the original plan had more of a courtyard but it is very difficult to tell where the additions stops and starts because they did such a good job,

Commissioner Steinberg stated he is use to historical buildings being a certain age and he believed in New York they must be 100 years old. Ms. Abele stated in Scottsdale the ordinance was crafted to be age silent because of the young age of the community. It was determined each building would be looked at on a case by case basis. Commissioner Steinberg inquired if this building would qualify under the Federal standard. Ms. Abele replied in the affirmative.

Commissioner Steinberg inquired how do they live with the contemporary signage on a historical building. Ms. Abele stated they must accept the building in the condition it is in. No owner is ever required at the point of designation to take it back to an earlier point in time. The standards say that when the changes are made they should be compatible but contemporary.

Commissioner Steinberg inquired if it were deemed historical would they bring it up to current codes including life safety. Ms. Abele replied in the affirmative. She noted they would use alternative methods that would respect the historical character.

COMMISSIONER HENRY stated she is not an expert on historic buildings. She further stated typically when the Commission is given something to approve they are given

criteria to determine whether it meets the criteria. She remarked that information was not included in their packet.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

CATHY JOHNSON, 8655 E. Diamond, representing the Historic Preservation Commission, spoke in favor of this request. She stated she is the Chair of the Historic Preservation Commission and they voted unanimously to make a recommendation to the City Council to approve the HP overlay zoning for the Valley National Bank. They felt it was an important addition to the City. In the Downtown, it is well recognized as a historic property. She remarked that Scottsdale is such a new community that they do not have many buildings. This is a prime example that would fit in with the rest of Scottsdale and what they are trying to do with the downtown area.

CHAIRMAN GULINO inquired regarding the HP ordinance, he was a little uncertain what points the Commission should be considering. Ms. Abele provided information on the HP ordinance. She stated because this is before the Commission as a zoning matter, the Commission is not being asked to look at the criteria and make that decision. In other places, it often operates that you trust the judgment of the Historic Preservation Commission and they in fact understand the criteria. She noted it was an oversight that they did not include the criteria. Ms. Boomsma stated the role of the Commission is to decide whether or not the zoning overlay should be placed on this particular property. She provided a quick summary of the ordinance. She remarked what it comes down to is whether the Commission believes there is something worth saving. Chairman Gulino requested staff make a copy of the ordinance and present it to the Commission.

COMMISSIONER HEITEL stated he is wrestling with the fact there is not a mandate if the building meets the criteria that designation must be applied. He further stated his other concern is regarding the timing because it does not appear that there is any eminent danger that his building is going to be knocked down. He remarked this poses the question of whether they feel this building should be preserved and are they willing to unilaterally impose this on an unwilling applicant. Ms. Boomsma stated ultimately there is not obligation on the part of the City to put a HP overlay on a property. The issue is whether you believe the property has historic significance and should be preserved. He noted if someone comes in for a building permit it would not come before the Commission and they would be able to get the permit without any further review. If it is designated HP it would have to go through another process.

BILL JENKINS, 7719 E. Vernon Avenue, spoke in favor of this request. He stated in the beginning the development review process applied only to downtown areas and the whole idea was to maintain the western theme appearance of all of the buildings. He remarked the Valley National Bank is a significant building built during a unique period in Scottsdale history. He requested the Commission approve this request.

DONALD HADDER, SR., 8232 E. San Miguel, representing the Scottsdale Historical Society, spoke in favor of this request. He stated this is a prominent building that uniquely represents a distinct stage of growth in the community. The Society supports actions taken by the City to recognize important places in the City. They also believe

that the process used to arrive at this proposal this evening is thorough, open, and appropriate.

JOHN BERRY, 4800 N. Scottsdale Road, Suite 6000, representing Globe Corporation, requested additional time because he was representing in essence the applicant. He presented information regarding why he felt the HP designation should not unilaterally be imposed on this property owner. He provided a brief summary of the HP ordinance. He discussed the additional burdens that would be placed on the property owner because of the HP designation. He challenged the staff justifications for the HP designation.

He stated this disappoints him the most from a policy perspective is that the City has a history of working with people of working in partnership with people. He further stated the staff demands that the applicant work with adjacent neighbors to come up with a solution that works and the City has not done that. The policy implication is here that if the property owner did not like it too bad they are going to make it happen anyway. It does not meet the criteria. Arnold Roy an expert in this area has clearly states it does not meet the criteria.

Mr. Berry stated this process has got to stop. They just heard staff has a hit list of additional properties they intend to go after. He suggest the Planning Commission look at instructing staff to come back with a text amendment that would ensure that this type of process does not happen in the future. A text amendment that states if you want a HP designation you must have consent of the property owner. It has worked 13 out of 14 times and it ought to work in the future if the city tries real hard. He respectfully requests they deny this request of city staff.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

COMMISSIONER NELSEN stated the Historical Preservation Commission does have the daunting task of trying to preserve what essentially does not exist. He stated lets leave the issue of significance out and get back to the City mandating one set of laws on one property owner as opposed to his neighbor. He inquired how does the Historic Preservation Commission deal with the issue if it was universally accepted as unique, significant and special like for example the Alamo. Mr. Berry stated he would agree the Historic Preservation Commission does have a difficult job. He further stated if a building is historically significant like the Alamo and other buildings many of those building are owned by the public either by the Federal government or state or local government. He remarked it is morally wrong to take one property and treat it differently whether or not if it is legally defensible. Commissioner Nelsen stating buying it is not the solution but that also opens up the door to condemnation.

Commissioner Nelsen stated he is sitting on the fence on this one because he is not a fan of this building because there are better examples of brickwork. He further stated he does not consider this as significant and would not be supporting this request.

CHAIRMAN GULINO commented this is a unique situation in that the property owner is not the applicant. He further commented he would suggest they think about when the

property owner is not the applicant how they could incorporate them into the process and give them an opportunity to speak and represent their interest.

MS. ABELE stated it was the conclusion of dozens of people from different areas of expertise on architecture that determined the significance of this property. She further stated it was a two-year process. She commented it might be beneficial to the Commission to allow her to come to a study session to provide them additional information on this process. She reiterated there is documented evidence that the property meets the criteria for the HP designation. She concluded she hopes the Commission will recommend approval to recognize this important historic building.

COMMISSIONER HEITEL inquired how many of the buildings have received this designation without the property owner's consent. Ms. Abele stated they have not had any opposition that was voiced in a public hearing. She further stated that this case did not go as well as it should have because they were already in the process when they learned of the opposition.

Commissioner Heitel stated he felt it would be a great policy to adopt that when these types of cases are brought forward the owner of the property must be in agreement with the designation. Staff is asking the Commission to take a step that they would never be able to retreat from. Ms. Abele further stated if a property is not eligible and significant and the only factor is that the owner is interested then that skews the system by which they judge these properties and then they would have a program that is not legally defensible.

CHAIRMAN GULINO stated he would not be in support of the overlay and it is not because he wants to state that the building does not have some significance because it does. He further stated the criteria are subjective. He remarked this building is not overwhelmingly significant based on our criteria. He further remarked that typically if these buildings are going to be designated as historic properties the government entity, in this case the City, needs to step to the plate and buy it or have the owners consent on it. It is not fair to impose on a single ownership the burdens that go along with a historical designation.

COMMISSIONER HEITEL stated he would suggest in the future that the historic preservation groups could start assembling a war chest in anticipation of condemnation of this building or others that they could enthusiastically support if it was necessary to condemn a building and interested groups could get together to raise funds.

COMMISSIONER HEITEL MOVED TO FORWARD CASE 17-ZN-2002 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR DENIAL. SECOND BY COMMISSIONER LOTZAR.

11. **22-ZN-2002 (Granite Reef Office)** request by Clanton Company, applicant, Western Commerce Bank, owner, to rezone from Service Residential (S-R) to Commercial Office (C-O) on a 1 +/- acre parcel located at 8399 E. Indian School Road.

MR. CURTIS presented this case as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

COMMISSIONER HEITEL stated the existing building is 28 feet but in the staff, report it indicates it is 24 feet. Mr. Curtis stated the existing building is 28 feet.

COMMISSIONER STEINBERG inquired if the existing building was a single story. Mr. Curtis replied no. Commissioner Steinberg inquired if there would be an elevator serving the second floor.

TOM FRENKEL, 6716 E. Monticeto, stated the project encompasses remodeling and a building addition to a vacant dilapidated office building. The rehabilitation consists of an addition to the existing structure of approximately 8,000 square feet. This will give the outside of the building completely new elevations and the appearance of a new office building. The existing structure improvements will be incorporated into the new structure being constructed. As part of the redevelopment, the grounds will be re-landscaped with mature trees being brought in. He provided an overview of the public outreach that occurred.

COMMISSIONER STEINBERG inquired if there would be ADA access to the second floor. Mr. Frenkel stated it would be his inclination at this point to put in an elevator.

COMMISSIONER HENRY stated she believed the ADA would require the Applicant to have an elevator. She further stated the building as it is currently is an eyesore. The building that is being presented looks beautiful. She remarked rehabilitation projects in the southern part of the City are great. She further remarked she supports this project.

COMMISSIONER NELSEN stated what the Applicant has presented is certainly an improvement to the existing building. He further stated he would send a message to the DR Board that the architecture could reflect a little more character. He remarked he would like to see something special put here. He further remarked he would support this request.

COMMISSIONER HEITEL stated he would echo the comments as it passes on to DR. He inquired if he could definitively state that the property owners are in support of this because it is a substantial increase in height to the existing building. Mr. Frenkel replied the neighbors that he met with were in support. The only concern from the homeowners association that they did not want trees planted between the parking lot and the masonry wall because they have had problems in the past with the trees damaging their wall. He added they have agreed to plant shrubs.

Commissioner Heitel inquired if the view from the second floor into their backyards was a concern. Mr. Frenkel replied because they would have mature landscaping it should not be a problem.

(COMMISSIONER GULINO OPENED PUBLIC TESTIMONY.)

JACK STEIN, 8403 E. Mackenzie, stated he is the first house north of this property on the east side of Granite Reef. He further stated he is in support of this project because

the building is run down and looks bad. He remarked as a result in the zoning changes their neighborhood has changed pretty dramatically over the last five to six years and the changes made to this building would be more in keeping with the current character of the area. He concluded he supports this project and it brings something nice to their neighborhood.

(COMMISSIONER GULINO CLOSED PUBLIC TESTIMONY.)

COMMISSIONER HENRY MOVED TO FORWARD CASE 22-ZN-2002 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER STEINBERG.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).

- 12. 8-GP-2002 (Montacino-McDowell Mountain)** request by Hg Nasser International LLC, applicant, Alterra Healthcare, owner, for a General Plan amendment from Urban Neighborhoods to Suburban Neighborhoods on a 6.32+/- acre parcel located at 12325 E Shea Boulevard.
- 13. 23-ZN-2002 (Montacino-McDowell Mountain)** request by Hg Nasser International LLC, applicant, Alterra Healthcare, owner, to rezone from Multi-Family Residential, Environmentally Sensitive Lands (R-5 ESL) to Single Family Residential, Environmentally Sensitive Lands (R1-5 ESL) with amended development standards and termination of an existing development agreement on a 6.32+/- acre parcel located at 12325 E Shea Boulevard.

MR. CURTIS presented cases 8-GP-2002 and 23-ZN-2002 as per the project coordination packet. Staff recommends approval of both the General Plan amendment and the rezoning, subject to the attached stipulations.

COMMISSIONER NELSEN inquired how did this become a 6.35 acre parcel? He also inquired if there were GLO easements on this property at one time. Mr. Curtis stated that in 1999 the City Council abandoned those GLO easements. He further stated it is his understanding the City only abandoned the City's interest in those GLO easements. Mr. Curtis replied that is his understanding. Commissioner Nelsen inquired about the private interests in those GLO easements and why aren't those easements still showing on the site plan. Chairman Gulino stated they have been through this a lot of times. He requested the City Attorney to refresh their memories on the City's position. He remarked the record should reflect Commissioner Nelsen opposes the GLOs and move on. Commissioner Nelsen stated that is not his point. He presented to staff a document from Congressman Hayworth's office basically stating that Arizona State law supports both a private access right and a public access right. Since the City is only abandoning their right, the easement should still show on the site plan. Ms. Boomsma provided an overview of the City's policy on GLO

easements. She stated the City abandons its interest but does not have an opinion on whether there are private interests or not. Commissioner Nelssen stated if the City does not say that the easement goes away then it should show up on the site plan. Ms. Boomsma commented the City has been directed by City Council to not take a position on whether or not there is a private right of easement over GLO easements but has instead chosen to abandon its own interest in the property and has chosen not to take a position on any potential litigation between two property owners. Commissioner Nelssen stated it is still not clear why these GLO easements don't show up on the site plan. Vice Chairman Lotzar stated it comes down to the position concluded that we don't have a dog in this fight and that is all there is to it. Commissioner Nelssen remarked they do have a dog in the fight as soon as they allow a plat plan like this because the City is putting their blessings on this site plan so therefore the dog is in the fight. Chairman Gulino noted their focus is on the land use and its impact on the area. He noted he felt the easements were a legal issue.

COMMISSIONER HEITEL inquired if the City in these GLO cases require from the applicant an indemnification in the event there is any losses from the property right issues. Ms. Boomsma replied the short answer is no.

GEORGE TIBSHERANY, 7150 E. Camelback Road, Suite 500, applicant, provided information on the public outreach that took place. He stated they are in agreement with all of the stipulations except three. The stipulations state: "The developer shall remove the existing sidewalk along the site frontage on Shea Boulevard and construct an 8-foot wide sidewalk along the site frontage separated from the back of curb connect to the existing sidewalk adjacent to the site". He stated they would like to retain the five-foot sidewalk, leave the NAOS there, and not disrupt all of the infrastructure.

He stated the stipulation that states there should be sidewalks on both sides of the street. They would request only being required to put sidewalks on one side of the street.

He remarked the last one has to do with the storm water waiver. He further remarked the storm water waiver was done back in 1998 and he would object to having to go through the same steps.

MR. KERCHNER provided an overview on the capital improvement plan for the sidewalks in this area. He noted the national standard is to have 10-foot multi-use path. They hope to have a 10-foot multi-use path along the south side of Shea Boulevard.

COMMISSIONER HEITEL requested clarification on the storm water storage waiver. Mr. Tibsherany provided a brief overview of how the process works.

COMMISSIONER HEITEL asked a series of questions regarding the 19 feet of fall across the front of the property. Mr. Tibsherany stated the Federal Government filled up a majority of the site to create a plateau to get it out of the detention area. On the southeast corner they kept it low and changed the zone line. Commissioner Heitel stated it does not make any sense to him how they are going to build it up to the plateau. He further stated it would have been helpful to have more information on this issue.

Commissioner Heitel stated the east side of the property abuts a transitional plan into the one-acre plus lots to the south and to the west, there is a five-foot setback with no landscaping. He inquired why there was not a buffer in between those one-acre lots. Mr. Tibsherany stated the Federal Government owns that detention area.

COMMISSIONER HENRY stated the narrative states the site is being returned to its original designation which it is not because it is a different zoning. Mr. Grant stated it was R1-43 prior to the re-zoning of R-5 and the request is to go back to R1-5, which is not the same zoning.

CHAIRMAN GULINO stated regarding the Applicant's request to not have to obtain a Storm Water Storage Waiver the fact that it is a different site plan would justify the need for that. He further stated regarding the sidewalk issue, it does not make sense to require an 8-foot sidewalk for 600 feet in the middle of a four-mile stretch of sidewalk. He noted because this is in the ESL overlay he would support having the sidewalk on just one side of the street. He remarked what is being proposed is an improvement to what is existing and for that reason, he would support the proposed zoning.

COMMISSIONER NELSEN inquired if the re-zoning from R1-45 to R-5 was so they could put in an assisted living facility. Mr. Grant replied in the affirmative. Commissioner Nelsen stated they increased the density to allow for a specific facility now we are going from multi-family to single-family but at five times the density. He further stated he has a problem with that. It was R1-43 for a reason and there was an exception made for a specific application and that did not come to fruition and now they want 28 house. He concluded he would not be supporting this request with the GLO easements issue aside because he has a problem with the process.

COMMISSIONER HEITEL stated he felt Commissioner Nelsen's comments should be well taken but this change of use is probably warranted in the market. He further stated he is uncomfortable with the site plan effectively utilizing the maximum amount of space on the property. The Developer is being able to do off site retention, which is unusual and is being allowed to replace the retention space with additional units. On the east side of the property, they are right on, the property line. They are asking an R1-43 neighbor to provide the buffer for

this project. He remarked if they were to lose a couple of lots they could provide a meaningful buffer and meaningful landscape. He further remarked the issue of the sidewalk somewhere in between that issue the Applicant could do an in lieu fee for the sidewalk landscaping. The sidewalk landscaping being proposed on the south side and the City could do the removal of the five-feet of existing sidewalk and the Applicant just paying for his fair share of the eight-foot setback. With those issues and the site plan as it sits he would not be able to support this request.

VICE CHAIRMAN LOTZAR stated they have a situation here where there is higher density maybe than they would like given the prior zoning. He further stated he felt the Applicant made good points with respect to the community outreach that they met with folks that are very active as far as community involvement goes in this neighborhood and they received their support. There is not a lot of affordable product in Scottsdale and it appears this is going towards that end. He commented he agrees with the thoughts of Chairman Gulino with respect to the sidewalks and with respect to the retention issue.

COMMISSIONER HENRY stated she drove out to this area and looked at the houses down 124th Street and they were beautiful. She further stated she looked at the site plan and felt it was crowded. She noted she would like to see a few less lots in there with a little more open space between the houses. As stated by Commissioner Lotzar the Developer did reach out to the community and the community does not have a problem with the site plan. She further noted she is not crazy about the site plan but we talked about affordability, although she could not afford to live there, it does not cost as much as the one-acre lot houses. She concluded she would support the case because the community does not seem to have a problem with it.

COMMISSIONER STEINBERG stated he agrees with his colleagues who reiterated the fact the Developer has gone out to the community and they don't see any opposition. It is a tasteful project. Based on the fact that Shea Boulevard is changing he could see high density without having any detrimental affects. He concluded he would support this case.

COMMISSIONER HEITEL MOVED TO FORWARD CASES 8-GP-2002 AND 23-ZN-2002 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR DENIAL. SECOND BY COMMISSIONER NELSEN.

THE MOTION FAILED BY A VOTE OF TWO (2) TO FOUR (4) WITH CHAIRMAN GULINO, VICE CHAIRMAN LOTZAR, COMMISSIONER HENRY, AND COMMISSIONER STEINBERG DISSENTING.

COMMISSIONER HENRY MOVED TO FORWARD CASES 8-GP-2002 AND 23-ZN-2002 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR

APPROVAL. SECOND BY VICE CHAIRMAN LOTZAR WITH THE FOLLOWING AMENDMENTS:

- 1) **WITH RESPECT TO THE CIRCULATION THAT THE DEVELOPER NOT BE REQUIRED TO REPLACE THE EXISTING FIVE-FOOT SIDEWALK THROUGHOUT BUT RATHER HAVE A 10 FOOT SIDEWALK FOR THE PORTION HE IS REPLACING APPROXIMATELY 200 FEET FOR THE INGRESS EGRESS THAT AN ADDITIONAL FIVE- FEET PLACED IN BY THE DEVELOPER ALONG THE EXISTING FIVE-FEET FOR REMAINING 400 FEET OF SIDEWALK ALONG SHEA BOULEVARD**
- 2) **THE INTERNAL SIDEWALK WITHIN THE DEVELOPMENT ONLY BE REQUIRED ALONG ONE SIDE OF THE STREET AS OPPOSED TO BOTH SIDES.**

COMMISSIONER HENRY stated she agrees with those changes to the motion.

COMMISSIONER NELSEN requested clarification on the stipulations for the sidewalk. Vice Chairman Lotzar stated he suggested that the 200 feet that is being removed be replaced at the staff level and for the remaining 400 feet rather than being torn up and replaced just be augmented with an additional five feet for the remaining 400 foot span along Shea Boulevard. Commissioner Nelsen stated he does not support the motion.

THE MOTION PASSED BY A VOTE OF FOUR (4) TO TWO (2) WITH COMMISSIONER NELSEN AND COMMISSIONER HEITEL DISSENTING.

14. **5-TA-2002 (Olympic Private School Facility)** request by Jorden, Bischoff, McGuire & Rose, applicant, Equus Realty, owner, for a text amendment to the City of Scottsdale Zoning Ordinance (Ordinance No. 455) to amend Article V., District Regulations., Section 5.1803., Use Regulations., to allow for private and charter schools within the Industrial Park (I-1) District by conditional use permit.
15. **26-UP-2002 (Olympic Private School Facility)** request by Jorden, Bischoff, McGuire & Rose, applicant, Equus Realty, owner, for a conditional use permit for a private charter school on a 1.8 +/- acre parcel located at 9318 N 95th Way with Industrial Park (I-1) zoning.

MR. STABLEY presented cases 5-TA-2002 and 26-UP-2002 as per the project coordination packet. He passed out clarifications on the text amendment. Staff recommends approval of cases 5-TA-2002 and 26-UP-2002, subject to the attached stipulations.

JORDAN ROSE, Jorden, Bischoff, McGuire & Rose, provided an overview of the proposed text amendment. The purpose of this request is to amend the Zoning Ordinance to allow private and charter schools to locate in areas with I-1 zoning with a use permit. She provided an overview of the public outreach that has occurred.

Ms. Rose provided background information on Olympic Camps. Olympic Camps of Arizona have provided an educational, high quality after school and summer experience for more than 400 children a year. She provided an overview of the amenities. She reported the start times would be staggered. She illustrated the fact that this request meets all the legal conditions of the use permit.

COMMISSIONER STEINBERG inquired if there would be any industrial manufacturing in the area that would be onerous to the students. Ms. Rose replied in the negative.

COMMISSIONER HEITEL stated he felt the text amendment was a great idea and there is a huge need in the area.

COMMISSIONER HENRY stated the text amendment was thorough and wonderfully written. She further stated having the staggered start times is great. She remarked she drove by and looked at the facility but wishes she would have gone inside because it sounds as if she missed a wonderful experience. She concluded she would be supporting this case.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

WARD HARRIMAN, 2629 S. Country Club Way, spoke in favor of this request. He stated he represents a school that wants to be working with this school. He further stated he fully supports their emphasis on technology. This facility is needed because many private and charter schools are turning children away.

MARA ADDISON, 12845 N. 89th Place, spoke in favor of this request. She stated the Olympus Campus has been a wonderful experience for her children. She further stated the amenities are wonderful. She concluded this facility is well received in their community.

MICHAEL ADLER, 7700 E. Gainey Ranch, spoke in favor of this request. He stated his son has attended Olympic School, he appreciates the fact there are low teacher ratios to campers, and the students receive a lot of individual attention. The staff members always gave 110 percent and make the children feel important. He commented he thought it was wonderful that the facility was expanding.

FRED GOLDBERG, 7700 E. Gainey Ranch Road, #150, spoke in favor of this request. He stated he is a retired schoolteacher and has been the head counselor for six years. He further stated teachers that run the camp are from the Scottsdale School district. He commented this is a first-class camp

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

COMMISSIONER NELSEN MOVED FORWARD CASES 5-TA-2002 AND 26-UP-2002 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL INDICATING IT DOES MEET ALL OF THE USE PERMIT CRITERIA. SECOND BY COMMISSIONER HENRY.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).

- 16. 6-TA-2002 (Front Yard Parking Regulations)** request by City of Scottsdale, applicant, for a text amendment to the City of Scottsdale Zoning Ordinance (Ordinance No. 455) adding Article VII., General Provisions, Section 7.200., Additional Area Regulations., I. Designated Parking in front yards (This section shall apply only to residential districts).

MR. KEAGY presented this case as per the project coordination packet. He stated the purpose of tonight's meeting is to receive public comment and forward a recommendation to City Council.

COMMISSIONER NELSEN inquired if this text amendment was applicable Citywide? Mr. Keagy stated it is applicable Citywide and is applicable to all types of vehicles.

Commissioner Nelsen stated on a five-acre parcel, using 33 percent, you could build 13,200 square feet of parking in the front yard in an ESL area. It seems like the thinking here was for small urban R-7 size lots. When you get up to a 10-acre parcel, you are looking at 27,000, 28,000 square feet of parking in the required front yard. He remarked there is another anomaly in the ordinance it stated no more than 30 percent of back yard can be covered by roof. Well people up north that have 40 acres could put a Wal Mart. He stated he felt this text amendment needs to be zoning dependent.

He provided insight on north Scottsdale as he lives it. They have dirt roads under the existing ordinance and his neighbor has a pre-manufactured home, had seven semi-tractor trailers parked in the front yard and the City would not do anything about it.

He reported he is in support of some type of ordinance change but he thought the numbers needs to be tweaked as they start apply to larger lots and that may be dealt with in the ESLO.

He stated the 35 percent of the required front yard must be continuous and not located in other areas of the front yard. If they were going to have 20-28,000 square feet of parking in somebody's front yard, it seems it should be split up in little parcels. Mr. Keagy stated that Commissioner Nelsen's calculations on the percentages of parking are accurate but he wanted to advise the Commission that currently the zoning ordinance allow 100 percent of your front yard. Commissioner Nelsen stated they have the opportunity to correct that.

Commissioner Nelsen inquired how this related to commercial vehicles over 10,000 pounds gross vehicle weight and commercially licensed. Mr. Keagy stated the zoning ordinance addressed commercial vehicles and does not allow them in residential. Commissioner Nelsen remarked that is absolutely untrue. He further remarked there are issues in his neighborhood where the police have been called. He stated he wants to make sure if they are going to craft a new text amendment to an ordinance that we cover all of the bases so that somebody through a loop hole cannot park a D9 caterpillar tractor in the front yard because it is not mentioned specifically as something that was not allowed.

COMMISSIONER STEINBERG inquired if there was a regulation regarding where the 35 percent can occur in the front yard. Mr. Keagy stated currently the regulation is silent. The original proposal recommended the 35 percent could be spread out anywhere in the front yard area. The recommendation of the Neighborhood Enhancement Commission further defined that and recommended that the 35 percent be contiguous to the driveway side. Commissioner Steinberg inquired how do they propose to enforce the 35 percent rule. Mr. Keagy stated that would be something they would have to address with code enforcement. They would have to take measurements of those properties that have been alleged to be in violation of the 35 percent and apply the ordinance accordingly.

VICE CHAIRMAN LOTZAR stated one of the reasons he became interested in participating on the Planning Commission was related to just this issue. The homes he used to live in this was a problem where everyone of the rules were violated. As a practical matter, he would agree with Commissioner Nelssen there was no meaningful effort towards code enforcement. He further stated the issues that Commissioner Nelssen pointed out are some things that can definitely be tightened up. He remarked he felt there was a lot of room for improvement.

COMMISSIONER HENRY requested clarification on the fourth bullet that reads: "Vehicles stored on the property must be screened from view and parked so they do not extend beyond the face of the house". Mr. Keagy stated the way he understands the Neighborhood Enhancement's recommendation is that they are differentiating the difference between parking and storing. Commissioner Henry inquired what is the definition of parking. Mr. Keagy stated the ordinance currently does not have definition that differentiates between storage and parking. Some surrounding communities have adopted a 72-hour ordinance that differentiates between parking and storing. Commissioner Henry stated the packet indicates that your department and the Neighborhood Enhancement Commission did look at National figures and other cites as far as what they are doing. She inquired why that information was not included in the Planning Commission packet. Mr. Keagy provided information on what three other Valley cities are doing regarding the front yard parking issue. He noted 35 percent seems to be the norm in most cities.

COMMISSIONER HEITEL stated it seems like these concepts are more conceptual and that some of the issues like screening and storage should be well defined. He further stated he would agree with Commissioner Nelssen's comments on some of the issues about different zones and different property sizes. He remarked while they are refining the ordinance they should have defined categories for each one of the zones. He noted he does not see definitions they can put their teeth into. Mr. Keagy stated he would agree that the recommendations from the Neighborhood Enhancement Commission do not have as much detail as the original three concepts that they took out to the community based on City Council direction. There would need to be definitions regarding parking and storing. There are certain areas of the Neighborhood Enhancement Commission recommendation that need to be clarified.

Commissioner Heitel stated the issue of definitions of "front yard and setback" can be widely different. He inquired what is the Commission's charge. Chairman Gulino stated their charge is to look at this proposed text amendment and make a recommendation to

City Council. They could pass this on to City Council with recommended changes or further definition regarding some of the issues they are discussing.

COMMISSIONER NELSEN inquired if Mr. Grant was comfortable in allowing parking vehicles in the setback in ESL areas. Mr. Grant stated he is not sure how to respond to that question from an environmental perspective. The logic of the larger lot the more coverage you can have and still maintain a lower impact to adjacent properties is valid. This issue probably has more impact on smaller lots where the houses are closer together. This ordinance is geared toward the smaller lots. From a ESL perspective, the less one does on the land the better.

Commissioner Nelsen stated in the ESL if they would require owners storing all kinds of vehicles to have them painted an LRV of 35 or less. They get into these kinds of issues. He inquired how do you screen a motor home if it is in your front yard. He remarked he lives in an equestrian area and often times there are 10 to 15 horse trailers parked in the front. He further remarked he would much rather see them parked in the rear of the property.

Commissioner Nelsen stated there are many outstanding issues regarding urban versus rural, small lots verses big lots and this ordinance needs to address the entire City not just areas where some one has a 1900 square foot house and a 1200 square foot motor home. Mr. Grant stated one idea might be to establish a sliding scale.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

WILLIAM BARTELS, 8607 E. Meadowbrook Avenue, stated back in 1994 he was diagnosed with cancer. He further stated he beat the cancer but has paid a heavy price with his health. He reported he can not drive for more than 10 miles. He further reported his trailer is one of the activities that allow him to get out of the house and do things. He remarked they do not have room in the back yard. He concluded if you enforce these regulations they would be forced to give up their trailer and that is the one thing that allows him to get out of his house.

JACK LITTLE, 8730 E. Montecito Avenue, stated they have CC&Rs that puts regulations on things they can and cannot do. He further stated he has a motor home and has tried to get storage at the Pavilions and they are full. He noted he checked into some storage facilities in Mesa but those facilities have been broken into and they steal everything. He requested they take a look at this ordinance because if you can't park them in the front yard where can you park them.

ROBERT GREATHOUSE, 8231 E. Indianola, stated when he moved his RV on the side of his house he asked his neighbor if he minded and he said he did not mind. He further stated he felt people should not be allowed to object if they do not live in his neighborhood. He remarked it is his property and he felt he should be able to do what he wishes on his property within reason. He further remarked there should be some sort of ordinance that stops the bad stuff but RVs are not bad. They pay the taxes and license these vehicles.

JANET MECA, 8201 E. Bonnie Rose, stated she has lived in Scottsdale for 25 years. They struggled with the idea of moving into an area that had more restrictions but

decided to stay in their home and remodel it. She further stated having a motor home parked in front of their home allows them the luxury of impromptu trips. She remarked she felt the Neighborhood Enhancement Commission's recommendation was overkill and should not be applied to the entire city. She further remarked enforcement would be a nightmare.

LORI NASH, 8127 E. Osborn, spoke in opposition to this request. She stated the reason they bought their house was because they wanted to live in an area that did not have CC&Rs. She further stated there are financial reasons why some people would be unable to comply with the proposed regulations. She remarked it seems like there might be a little bit of confusion regarding what goes on what percentage of the covered ground. She concluded she does not want Scottsdale to be perceived, as "Snottsdale" because it seems a bit discrimination against people who do not have three-acre properties.

WILLIAM CHAMBERLAIN, 8231 E. Fairmont, spoke in opposition to this request. He stated he has lived here since 1967 and he retired eight years ago and bought a 29 foot RV. He further stated with the proposed recommendation they would not be allowed to park their RVs and many of the homes south of Indian School cannot adapt to the proposed changes.

MARK ELLINGSON, 8650 E. Pecos Lane, spoke in opposition to this request. He stated when he bought his house he did not want an HOA. He stated he is not here as a homeowner he is here as a professional he sales real estate here in Scottsdale. He further stated 90 percent of his business has been in Scottsdale and has been south of Shea. He remarked when someone comes to him and says they do not want to see RVs he takes them to McCormick Ranch. If they want RV parking, they go south of the canal and go to the older homes. A lot of these houses do not have room for the RVs. He concluded if these people are not allowed to park their RVs in these areas they would have to move and the property values would go down.

PATTY BADENOCH, 5027 N. 71st Place, spoke in favor of this request. She stated the ignoring and neglect of the front yard parking and storage has compounded the problems to the point it will take a lot of consideration and perseverance to sort out all of the details. It is apparent to her that the 15 years of having it the way it exists now has caused further abuse of people's properties relative to quality of life and property values. She reported that she contacted several storage facilities and they have adequate security. She provided information on the cost and amenities at these storage facilities. She concluded to leave this situation, as it is, is not an option and would urge them to move forward and the details can be determined.

ERIC POULSON, 8643 E. Valley View, stated he grew up in Scottsdale and has had opportunities to live in several places in the City but chose to live in the southern part of the City because he prefers mature neighborhoods. He further stated he did not think it is unreasonable to request that people not park their RVs in the front yard. He remarked he would not have bought his house if it was next to a yard with an RV in it. He further remarked many of the people that he sales houses to share his view.

PAULINE BROOKS, 8326 E. Cheery Lynn, spoke in favor of this request. She stated she felt the RVs should be parked in the back yard because in Scottsdale most of them have allies. She further stated she is concerned about her property value going down. She noted there is plenty of room in the back yard to park these vehicles

CAROL ZAPPIA, 8424 E. Cambridge Avenue, spoke in opposition to this request. She stated she is opposed to moving or paying for storage of their RV. She further stated they own four homes that are within a block or two and two have RVs. She reported she has walked this area and there was only two- percent that were ungodly sights. She inquired if they were going to let the few people who don't take care of their property or their RVs to rule the rest of us. She remarked she decided to move into an area where it was not controlled. She further remarked many people have worked their entire life for this type of lifestyle.

KEVIN O'GRADY, 6801 E. Vernon, spoke in opposition to this request. He stated people should have full use of their property absent of danger or injury. The City has no stats on any problem nor has a specific problem been identified. The information indicates in 2001 6 percent of all code complaints related with parking, less than .1 percent dealt with RVs. The proposed ordinance could have negative consequences for those opposed.

JOANN MCFARLAND, 7333 E. Wilshire Drive, spoke in favor of this request. She stated she has lived in her house for 45 years and has remodeled it. She further stated she does like RVs but she does not like one parked next to her house the size of a city bus. She presented information on the struggles she has had with her neighbor regarding this issue.

SONNIE STEVENS, 8507 E. Highland, stated she has lived in Scottsdale since 1967. This issue is simple. The City has already helped them clean up the allies and now they are asking you to help us clean up the front yards. The City seems to be addressing our needs because they have reorganized and have a Citizens and Neighborhood Resource Department and two citizen advisory groups the Neighborhood Enhancement Commission and the Scottsdale Pride Committee. She encouraged them to take a close look at the proposed ordinance. She presented pictures that illustrated the need to approve this ordinance. She remarked this is not the Scottsdale they want to be remembered by our visitors. She provided an overview regarding the safety issues that are posed by these vehicles being parked on the street. She reported the character areas need further attention. She noted that a three-foot setback would be the minimum but five feet is better. She further noted that corner lots need to be carefully clarified and defined what areas may be used. There needs to be provision for loading and unloading of the RVs. She concluded she would prefer they move this forward to the City Council for more discussion.

JULIE DONNELLY, 8707 E. Montecito, spoke in favor of this request. She stated she does not fit the mold of an RV owner. She further stated she prefers to live in an area that does not have a lot of restrictions. She remarked she would imagine that probably 90 percent of the RV owners are from other states and they chose to live in Scottsdale. She concluded she does not feel their rights should be taken away.

DARLENE PETERSEN, 7327 E. Wilshire Drive, spoke in favor of this request. She read a letter from the President of COPP that outlined his reasons for updating the ordinance. The letter suggested Scottsdale look at other cities that have adopted an ordinance that addressed this issue. She stated when she bought her house 44 years ago the neighborhood was comprised of young families and they had nice houses and everything was fine. When people started to get more money they started to buy the big toys but these lots are too small to accommodate these vehicles. She reported their deed restriction indicates they should only be allowed to park two cars. She further reported they do not have an Homeowners Association to enforce these issues. She recommended they look at what other cities have done to solve this problem.

GEORGE KNOWLTON, 8701 E. Valley View Road, spoke in opposition to this request. He stated he is a member of the Neighborhood Enhancement Commission but is speaking in his personal capacity. He further stated he is a 20-year homeowner/resident of the Park Scottsdale area of the City. Many of the residents are upset about what they feel was a blind-sided attack on their property rights in the older non-controlled, and non CC&R areas of Scottsdale. He discussed the reasons why he was not in favor of this ordinance and proposed a compromise, and to solve the issue once and for all, they ask that the existing ordinance be left in place as it is currently written with the following changes or additions:

- No portion of any vehicle is to extend into a one foot setback area from the sidewalk, or within three feet from the curb if no sidewalk exists, for reasons of pedestrian and vehicular vision and safety. If the property is too shallow or narrow to maintain the one foot setback but the vehicle can fit perpendicularly behind the sidewalk, a variance may be issued by the City to accommodate the owner while in possession of that specific recreation vehicle or another of the same size specifications.
- An additional pad not to exceed 10 feet in width may be installed, meeting city code specifications, as perpendicular to the street as possible for parking or access to the side yard, or to widen an existing driveway unless it is to widen said driveway. Pads can be built only on the side property lines of the property, so as not to divide or destroy the front yard ambiance of the property and to allow for safe fire department or emergency access in case of a structure fire or other disaster.
- Vehicles shall not be occupied as living quarters while located on any single family residential property.
- For reasons of safety, and for fire department or emergency access, no vehicle shall be parked perpendicular to the side property line so as to block the view of, or access to, the front yard or living portion of the home without an approved variance from the city.

He requested that the Commission consider, then accept their proposal as the final word on this issue. He remarked they felt they have bent over backwards to compromise on this issue while still maintaining a few of our property rights which have existed for decades.

JOHN CULVER, 8544 E. Vista Drive, spoke in opposition to this request. He stated nobody seems to taken into consideration this has happened throughout the United States where organizations builds houses and the builder takes care of enforcing the CC&Rs until the last house is paid for and then he bails out and requires the Homeowners Associations enforce these regulations. Another thing that is happening around the United States Homeowners Associations are trying to force the City to enforce the CC&Rs. He remarked he felt you should not take away a man's private property rights. He further remarked he was in the Marines for 25 years and fought for this Country. He noted he has worked to be able to own an RV and does not think this issue should be regulated.

GARY SALZMAN, 8323 E. Mackenzie Drive, stated he helped to build many of the homes that have been presented in these pictures tonight. He presented information on the difficulty this ordinance would impose to the RV owners.

CHARLES POSTON, 8550 E. Bonita Drive, stated when he owns a vehicle he has clear responsibilities for the use and storage so that it does not interfere with his neighbors quality of life. He further stated by having these vehicles parked in the front yard they are reducing the value of their homes. He noted the text amendment is a step in the right direction and is badly needed.

HERBERT ROOT, 6725 E. Vernon Avenue, spoke in opposition to this request. He stated he has put a slab on the side of his house to park his air stream. He further stated he would not want to be forced to have to put his vehicle in the back yard. He noted his area is well maintained but there are probably other areas that need to be addressed but they should not burden everyone.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

COMMISSIONER STEINBERG stated they have heard some great testimony tonight. He further stated that he felt owning an RV is a personal lifestyle choice and he would hate to take that choice away from good American people like these people. He remarked he felt they need to craft some sort of legislation that will maintain property value for everybody at large. He further remarked they need to craft a solution that works for everybody and he would welcome a workshop approach to get together and try to craft something that works for everybody. It will not be perfect but he hates to take away the freedom and liberty of these good people who fought for our Country that live here and deserve to live the lifestyle they have dreamed of and saved money for. He reported he does not want to see blight in neighborhoods especially in Scottsdale but he thought they could get together and try to craft something in a workshop environment and if they are all reasonable and flexible they could come up with a solution.

COMMISSIONER HENRY stated it is interesting tonight that all they have heard about is RVs but her understanding of the proposed language is that it includes all vehicles. Mr. Keagy replied in the affirmative.

Commissioner Henry said Scottsdale has a city code stating that disabled vehicles, unlicensed vehicles or vehicles not being moved must be stored out of sight. She further stated there are vehicle problems in the city but they are sporadic. She further

commented she lives in the southern part of the Scottsdale and in her neighborhood there is the occasional homeowner that has vehicles galore. She further commented one homeowner has five trucks parked in the driveway and the street. It is a hazard to drive up and down the streets because they have so many vehicles. Many of the homes in southern Scottsdale were built in the 60's when residents only had one car per family. Now residents may have as many as 3-5 cars and RVS.

She stated she was on the Neighborhood Enhancement Commission almost two years ago when Scottsdale citizens approached the Commission and said we have a problem with vehicle parking. There are isolated cases where people take advantage of parking vehicles when they have so many. She further stated she could see both sides of the fence. She remarked she would be in favor of Commissioner Steinberg's approach regarding having people work together and address the trouble spots regarding parking but don't regulate everybody. It's homeowners who do not care that let everything go to pot. She further remarked that the proposed parking regulation is a good start but it needs more work before they move it forward to City Council.

COMMISSIONER HEITEL stated Commissioner Henry's point is well taken that the challenge is that they are trying to accommodate a 2000 lifestyle in homes that were built in the 60s when people had one car. He further stated he would be very cautious painting everything with a broad brush just to hurry something through the process.

He stated that predominantly the comments are from people in the older part of the City. He inquired what zones are they generally talking about. Mr. Keagy stated this ordinance is being proposed for all R-1 zoning districts. Commissioner Heitel stated he understands that but the discussion tonight has not been Citywide as he perceives it. It has been from a specific area of the city and that area does not have ESL requirements it does not have five acre zoning requirements it has subdivisions that were created in the 50s and 60s and those were specific zones. He further stated he would assume staff has surveyed those areas. Mr. Keagy stated the problem, as they understand it seems to be in the R1-7 to probably R1-10 zoning districts. He further stated he does believe the ordinance could be crafted that could be applied to some but not all-zoning districts. That is not something that has been looked at but if that is the direction of the Commission, they could use that as part of their discussion.

Commissioner Heitel stated the challenge appears is finding a way of dealing with RV or boat storage in these older areas. He further stated he could not see moving this forward to the City Council without further definition on this whole issue. He added he would support the idea of having focus groups.

COMMISSIONER NELSEN stated if they are going to have a more restrictive parking ordinance it should not be restricted to one part of the City, but they do need to have different percentages. He further stated at a certain point you can't put ten pound of you know what in a five pound bag and some of the pictures that were presented during public comment that is exactly what we are talking about. Not that you don't have the right to do it but it is like you are inviting conflict. It is always an issue when you are obstructing somebody's view.

He stated he has heard a lot about non-controlled areas in the City of Scottsdale but he does not know where those areas are because it is just a matter of how much control.

He remarked for example if you decided to start from scratch and build a new house on your lot you could not put a trailer on your lot but some people are parking trailers in front of their houses on wheels. He further remarked he heard reference to restrictions in north Scottsdale most of those restrictions came out of growth and change of the demographics. He stated he has been a vocal advocate of more restrictive controls not because he likes the government telling him what to do but because when massive amounts of people are moving into an area they have impact on the environment. It will happen with growth and somebody needs to monitor how growth occurs. These older homes were not designed to have 30 foot vehicles in front of them but you own those and the neighbors maybe offended by that because their views are blocked. This is a daunting task to bring forth an amendment. He commented it would probably have to offend everybody in order for it to work. He further commented some of the pictures they have seen tonight look like parking lots. If you had a commercial building you could not park that many cars on that spot but you can in your front yard. He noted he sees a lot of grass that has been turned into concrete that increases the thermal mass which creates another problem. He reported he felt this City is always trying to make things better with the change in the population.

He stated there have been several references made to the lack of code enforcement. He inquired if this would give them a better set of tools for enforcement. Mr. Keagy replied this ordinance would increase their work load but they feel comfortable that they could accomplish. Commissioner Nelssen stated he has a problem with code enforcement because they cannot enforce the laws they have currently. He inquired if they have sufficient staff to enforce the proposed amendment. Mr. Keagy stated they don't know the number of complaints that would occur so they may have to look at staffing requirements.

VICE CHAIRMAN LOTZAR stated he felt that code enforcement has been under done and it is not acceptable and the answers staff has given are not acceptable. He further stated this is a problem that needs to be resolved. He commented he was very happy with Mr. Knowlton's effort to come to some level of compromise and it was well done and appreciated. He further commented they need to collectively work together to craft something that will be enforceable that people with RVs can live with and not try to skirt around your intentions with respect to the use of your vehicle. What they are trying to do here is balancing between individual property rights verses property rights of the collective and that is what our job is. He noted he felt it was fair to say that despite what was said tonight on balance they felt there is a need for an adjustment. They felt there was a need for improvement. There is definitely a need for improvement with respect to code enforcement.

He stated he believes there is room in the ordinance that eventually will be crafted to have different applications for different types of properties. There is also room for this ordinance to have the ability do deal with hardships. There could also be the ability to grandfather the time of the application to the regulation that is going to be enhanced but it should be enhanced. The application should be broad to various types of vehicles not just RVs.

He concluded he thought there needs to be a substantial amount of work done. This is something that if the right amount of effort is put into it and can be easily interpreted and applied would be for everyone's benefit.

CHAIRMAN GULINO stated the proposal before them needs a lot to be desired for a lot of the reasons that have been stated by his colleagues. It is way too simplified. There appears to be a problem that does not so much appears to be a parking issue as much as a blight issue. He further stated he felt they need to put more definition into whatever it is they consider. They need to consider the different character areas within the City. They also need to discuss how they would transition something like this if in fact they get that far. This has a very real potential of becoming a taking and he is a big believer in preserving people's property rights. Where you draw the line is very subjective.

He remarked he lives in a neighborhood not far from here where there are no CC&Rs and he moved from a neighborhood that had CC&Rs and he prefers the lack of CC&Rs but he also sees the consequences of that. He further remarked he has two or three homes within a couple of blocks that look like junkyards in the front and that is the problem. He commented he does not think that what was presented today would solve that problem without harming people who are very responsible about what they do.

He stated he felt if somebody has a friend or a relative coming into town there should be situations where those people could park their RV and stay with these folks for a week or two. He further stated he does not support living in these types of vehicles for months at a time. He noted they could issue a permit to these folks as a way of controlling the situation.

He reported he would recommend the Commission either passes this on the City Council with a recommendation for denial or continues this case to allow the issues they have raised to be addressed.

COMMISSIONER HEITEL stated he would support a continuance to allow the community to be involved in coming up with a solution. He further stated he is very concerned about a broad brush approach across the entire City. He remarked he could not see moving this forward to the City Council without further definition on this whole issue. He added he would support the idea of having focus groups.

VICE CHAIRMAN LOTZAR MOVED TO CONTINUE CASE 6-TA-2002 TO THE FIRST AVAILABLE PLANNING COMMISSION MEETING IN MARCH OF 2003. IN THE INTERIM DIRECT STAFF TO TAKE INTO CONSIDERATION EACH OF THOSE ITEMS EXPRESSED TODAY AND HAVE EACH OF THOSE ITEMS INCLUDED IN THE STAFF REPORT AS WELL AS A NEW FORM OF PROPOSED ORDINANCE WHICH OUR STAFF INCLUDING COUNSEL TELLS US CAN BE ENFORCED AND IS ENFORCEABLE.

COMMISSIONER HEITEL stated he would like to add and is not a predominant hardship on people with existing RVs.

SECOND BY COMMISSIONER STEINBERG.

MR. KEAGY remarked this is an issue that has been in the community for a number of years. He further remarked he appreciates the Commission's concerns and questions but the format and ideas they are asking them to go back to they have done already. They have talked to these residents in a variety of settings. They have talked to both sides and requested information that would be acceptable to both sides of the issue. He reported as the Applicant of this text amendment he would look to this Commission to provide a recommend with an approval or denial and would oppose a recommendation for continuance.

COMMISSIONER STEINBERG stated as it is written today it seems there are many issues that are left undefined. It needs to include some of the definitions that were express tonight. Mr. Keagy stated he would agree that there are issues in the Neighborhood Enhancement Commission's proposal that need to be addressed. If the Planning Commission is willing to look at the three original proposals, he would be happy to answer any questions.

COMMISSIONER NELSEN stated everybody has expressed their concerns and he would trust they would get into the minutes and get to the City Council. He further stated they are also as well as commissioners' citizens of this city and they can call the City Council members and express their concerns just like any resident of the City. He remarked he felt it would be an unnecessary delay. He further remarked no one here is in favor if this recommendation but he would be in favor of sending this to the City Council with a recommendation for denial.

CHAIRMAN GULINO commented this whole situation reminded him a lot of one he was in a little over a year ago and within maybe 24 hours the Commission had been subject to some unfavorable comments and they were called into a special meeting that was very uncomfortable. He remarked he felt the Planning Commission is charged with the responsibility of forwarding a recommendation on to the City Council based on the complete application and complete reports. He further remarked there are a lot of unanswered questions here but there are the undertones of taking this case and pushing it to the City Council and letting them deal with it. He noted that creates a bit of a quandary for him. From everything he has read and been told this case has been around for years and years.

MR. EKBLAW stated the intent is not to take away the options before the Commission but it is the desire of the Applicant, in this case the City, to make a recommendation to the City Council either for approval or denial.

THE MOTION FAILED BY A VOTE OF THREE (3) TO THREE (3) WITH CHAIRMAN GULINO, COMMISSIONER HENRY AND COMMISSIONER NELSEN DISSENTING.

VICE CHAIRMAN LOTZAR MOVED TO FORWARD CASE 6-TA-2002 TO THE CITY COUNCIL WITH A RECOMMENDATION OF DENIAL NOTING THAT THE SPIRIT OF THE COMMISSION IS THAT A REGULATION IS IN ORDER. THAT THE WORK THAT HAS BEEN PRESENTED TO THEM IS INADEQUATE. AND THAT STEPS SHOULD BE TAKEN AND SHOULD HAVE BEEN TAKEN TO GET THE

**APPROPRIATE FORM OF REGULATION. SECOND BY COMMISSIONER
NELSEN.
THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).**

WRITTEN COMMUNICATION

There was no written communication.

ADJOURNMENT

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission was adjourned at 11:50 p.m.

Respectfully Submitted,

"For the Record " Court Reporters



**DRAFT MINUTES
SCOTTSDALE PLANNING COMMISSION
KIVA – CITY HALL
3939 N. DRINKWATER BOULEVARD
DECEMBER 18, 2002**

PRESENT: David Gulino, Chairman
Charles Lotzar, Vice Chairman
James Heitel, Commissioner
Kay Henry, Commissioner
Tony Nelssen, Commissioner
Steve Steinberg, Commissioner

ABSENT: Kevin Osterman, Commissioner

STAFF: Donna Bronski
Tim Curtis
Pete Deeley
Scott Hamilton
Jerry Stabley
Kira Wauwie
Randy Grant

CALL TO ORDER

The regular meeting of the Scottsdale Planning Commission was called to order by Chairman Gulino at 5:00 p.m.

ROLL CALL

A formal roll call confirmed members present as stated above.

OPENING STATEMENT

COMMISSIONER HENRY read the opening statement which describes the role of the Planning Commission and the procedures used in conducting this meeting.

REGULAR AGENDA

1. 8-AB-2002 (Burkhardt Property) request by Gilbertson Associates Inc, applicant, Rick & Susan Burkhardt, owner, to abandon 55 foot roadway and public utility

easement along Dixileta Drive and 112th Street and a 30-foot roadway along Morning Vista Drive alignment of Parcel 23, Goldie Brown Pinnacle Peak Ranch, Unit 3, generally located at the southeast corner of 112th Street and Dixileta Drive.

MR. DEELEY presented this case as per the project coordination packet. Staff recommends approval, subject to the attached stipulations:

- Dedication of a 25 feet public waterline easement along the entire south property boundary.
- Dedication of a 25 feet public trail easement along the entire frontage on 114th Street.

COMMISSIONER HEITEL stated the Applicant has indicated in a letter that these are not right-of-ways and this should not be considered a right-of-way issue. He stated those are rights-of-ways and easements. Mr. Deeley stated these right-of-ways were recorded when Goldie Brown was created. He further stated there is a cloud on the title as far as rights-of-ways are concerned but city policy has been to bring before you abandonment of those right-of-ways and dedication of any right-of-way we feel needs to be cured through this process.

STEVEN VOSS, 7202 E. Main Street, representing the applicant, stated they have been working on this case for a year and a half. This case started as a request from the City of Scottsdale when they approached his client asking if they would be willing under friendly condemnation to use four or five acres of this facility for a water tank facility. He further stated he contacted his client and recommended they move forward with this process. He noted they have had many conversations with staff. There have been discussions regarding trails and they have requested there not be trails on this site. They consider the trails to be a devaluation of the property. They would request the Commission to consider what they have been through and they have a letter from staff stating the only logical place for trails is along 114th Street. It would be a financial burden to his clients if they imposed trails on the north sides of those lots. They think it is better to consider the Preserve to the north, which is slated, for open space and they believe that would be the correct place for trails. He further remarked these are not rights-of-ways they are easements. He concluded he would recommend the Commission forward this to the City Council with a recommendation for approval.

COMMISSIONER NELSEN stated regarding the letter they received from Mr. Voss that states the reason for not wanting any trails on the north sides of these lots is because it would negatively impact their property values. He inquired if there was any hard evidence that equestrian trails in the City of Scottsdale have negatively impacted property values or ever decreased the ability for a piece of property to be sold. Mr. Hamilton stated he does not have any hard evidence that it improves or decreases the property value. It would be very difficult to say it impacts it positively or negatively.

Commissioner Nelssen stated he is a little uncomfortable with not getting a trail easement along the Dixileta alignment because they don't know for certain what is going to happen in the future Preserve land. It would seem prudent to get a potential trail easement because it is an opportunity they may need in the future. He further stated the

draft of the trails master plan indicates that on Dixileta right across from that property it indicates neighborhood trails it could be on the north or the south side. He further stated they need to have some wiggle room here because for all to long the trails in this City have been in straight lines and back of the curb and we are setting a course for that again.

He further stated it is his understanding from the past conversation that these would not be developed as equestrian properties. He further stated that he still feels strongly that in the future he would like to preserve these areas for future equestrian use even through they are not developed for that use now but someone in the future may desire to have equestrian use.

COMMISSIONER STEINBERG inquired if the only way to get to the area to the north is through 114th Street. Mr. Hamilton replied in the affirmative. Commissioner Steinberg inquired if it was his opinion that not having trails would be detrimental to the trails system along the edges of the property. Mr. Hamilton stated their trails plan does show a trail alignment east west roughly along Dixileta alignment. From our standpoint on trails around the entire potential Preserve area is that those trails would be set in. Their goal is to get away from the development to provide a better experience for trail users and lessen any potential impacts on adjacent properties.

Commissioner Steinberg inquired if by right they can have horses on this property if they wanted to and could they use the cul-de-sac that serves the entire project for accessing horses on the 114th Street alignment. Mr. Deeley stated they could use the 114th Street and cul-de-sac if the CC&Rs allow it.

MR. HAMILTON reviewed the Trails Master Plan for this area and the neighborhood access.

COMMISSIONER HEITEL stated one of the issues that troubles him with just abandoning it they are making the assumption it will be Preserve Land to the north and it was made very clear that the State Land Department has every intention to auction the property off to the highest bidder. He further stated it is their hope the city is successful and is able to purchase the State Land. If they don't it precludes them down the road from having some sort of circulation in that trail. He noted if the trail they envisioned going to the east ends up being R1-90 private ownership property they would not be able to build that trail through somebody's private property and they may need the Dixileta alignment. Mr. Hamilton stated if a private owner does purchase it and developed privately they do have the potential to secure a trail easement through that development process. He further stated they have a strong record in preserving land they want to preserve. It is very likely it will become preserve. Commissioner Heitel stated it seems premature to just cut off that connection until we know that for a fact. Perhaps they could fashion something that said in the event they don't need that connection and there is a preferred trail alignment north of Dixileta alignment that it could revert to the ownership without the easement.

Commissioner Heitel stated the letter from Mr. Voss indicates his client would be financially impacted if this easement right-of-way is not abandoned but in fact did not they buy this property subject to existing easement issues. Mr. Voss replied they did

buy this property with survey that identified these as easements. There are no right-of-ways. There is a cloud whether they exist at all but they are not here to argue whether it is an easement or not. They are here to take them off of their lots because they believe when a buyer comes forward to buy these lots they do not want easements, horse trails and they don't want things that basically tell people they should not buy this because it may not be worth as much. The difference between rights-of-ways and easements is that the city owns the right-of-way and these are not right-of-ways so they are not taking a trail away because a trail never existed on this site. Commissioner Heitel reiterated the fact regarding giving up the easement for public use prematurely when looking at the big picture. Mr. Voss stated he could appreciate that and the big picture is more important than one parcel. The difficulty here is there is no legal connection to city property today. He further stated they are asking to move forward with the understanding that this will be Preserve. They are banking on that as well. There is also the issue of liability of having a public trail on a private lot and they are concerned about that as well. Commissioner Heitel remarked the liability issue could be dealt with in some fashion. He further remarked the State Land issue is by no means a done deal. If abandoning 55-foot portion of the trail easement is too much they could consider only the north 25 feet of the property. He further stated that might be a middle of the road solution.

COMMISSIONER HENRY inquired if the subdivision on the west Burkhardt property the north alignment of the subdivision if they have provisions for trails. Mr. Hamilton replied there is no trail easement along the north side of Boulder Crest to the west so an easement on the Burkhardt property would not connect to an easement to the west. Commissioner Henry stated the property on the east of the Burkhardt property has not been planned yet and has not been subdivided so there would be opportunity there if the thinking were to go in that direction. There is no connectivity to the west so the planning of the Preserve trail will be north of Dixileta. Mr. Hamilton stated that is correct.

COMMISSIONER NELSEN inquired if there were protections to protect property owners regarding liability issues on equestrian trail. Mr. Hamilton replied there is a Arizona Recreational Use Statute that does provide some protection to property owners for providing at no cost to the public access on to their property.

Commissioner Nelsen commented he found it odd that it is acceptable to have water storage facility but is not acceptable to potentially have a two-foot wide equestrian trail because it might impact the value of the property. He further commented the bottom line is that these are tough economic times and tough decisions have to be made and the State Land is highly developable land and there is no question there are interested bidders. He remarked he has not changed his opinion that he felt they should reserve the right until such time we know for sure that access would not be needed.

MR. VOSS stated he would like to respond to the comment regarding the City facility verses a trail. The city facility for the water tank is being designed to look like a custom home.

COMMISSIONER STEINBERG inquired if the CC&Rs preclude having horses on these lots. Mr. Voss replied in the negative. Commissioner Nelsen noted that is exactly the opposite answer they received last time. Mr. Voss stated they have not authored the

CC&Rs and that determination has not been made they are still in the final plat process at this time.

COMMISSIONER NELSEN inquired if there is now potential for equestrian use on this property he does not understand why the equestrian trail going around the property would not be a value. Mr. Voss stated the issue is public verses private use. Commissioner Nelsen stated what has been presented to them is the abandonment of a 55-foot roadway and public utility easement. If they are not abandoning a roadway and public utility easement, what are they addressing? Chairman Gulino stated they are abandoning a easement for the roadway purposes and public utilities. Mr. Deeley stated a roadway or an easement goes through the same process for abandonment.

(Vice Chairman Lotzar arrived at 5:45 PM)

CHAIRMAN GULINO stated it appears this boils down to whether or not there is a trail easement along Dixileta. He further stated he does have some reservations of the validity of the location along Dixileta based on a couple of things. One the connectivity on the northwest corner. They are looking at two scenarios that could occur on this property to the north. There is the chance it may be purchased by the City for the Preserve and the trail would go in according to the Master Plan. There is also the chance it may be purchased by private ownership, it would have to come through the public hearing process, and the easement would be required. He commented either way they are not losing the opportunity for a trail. He remarked he is not convinced they are justified that this burden be placed on the property at this point. He concluded he would support the abandonment as proposed.

COMMISSIONER HEITEL reiterated the fact that he felt it was premature to completely abandon the easement.

COMMISSIONER HEITEL MOVED TO FORWARD CASE 8-AB-2002 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL SUBJECT TOT HE FOLLOWING STIPULATIONS:

- **DEDICATION OF 25 FEET PUBLIC WATERLINE EASEMENT ALONG THE ENTIRE SOUTH PROPERTY BOUNDARY.**
- **DEDICATION OF A 25 FEET PUBLIC TRAIL EASEMENT ALONG THE ENTIRE FRONTAGE OF 114TH STREET.**
- **THE APPLICANT DEDICATE A 25 FOOT PUBLIC TRAIL EASEMENT ALONG THE NORTH PROPERTY BOUNDARY.**

SECOND BY COMMISSIONER NELSEN.

THE MOTION FAILED BY A VOTE OF THREE (3) TO THREE (3) WITH CHAIRMAN GULINO, COMMISSIONER HENRY, AND COMMISSIONER STEINBERG DISSENTING.

COMMISSIONER STEINBERG MOVED TO FORWARD CASE 8-AB-2002 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL SUBJECT TO THE FOLLOWING STIPULATIONS:

- **DEDICATION OF 25 FEET PUBLIC WATERLINE EASEMENT ALONG THE ENTIRE SOUTH PROPERTY BOUNDARY.**
- **DEDICATION OF A 25 FEET PUBLIC TRAIL EASEMENT ALONG THE ENTIRE FRONTAGE OF 114TH STREET.**

SECOND BY COMMISSIONER HENRY.

THE MOTION PASSED BY A VOTE OF FOUR (4) TO TWO (2) WITH COMMISSIONER HEITEL AND COMMISSIONER NELSEN DISSENTING.

2. 3-TA-2000#2 (Wireless Communications Ordinance Text Amendment) request by City of Scottsdale, applicant/owner, to update Ordinance No. 455 (Zoning Ordinance) pertaining to Wireless Communications Facilities.

MR. STABLEY presented this case as per the project coordination packet. He reported due to the complexity of the subject and the diversity of people involved with the text amendment process, there were several details and ideas on which the Team members had significant disagreement. Those outstanding items are summarized as follows:

- **Public Notification:** The proposed text amendment requires property owners within 300 feet be notified of all new wireless communications facilities. However, there are differing opinions regarding notification of residents located further from the site and notification of other potentially affected citizens.
- **Radio Frequency (RF) Initial Compliance:** The Federal Communications Commission (FCC), not the City of Scottsdale, regulates RF emissions. There is disagreement regarding whether the city should verify if FCC RF regulations are met for new sites.
- **Radio Frequency (RF) Continual Monitoring:** There is disagreement regarding whether the City should be responsible for the continual monitoring of RF emissions, including the cumulative impact of multiple antennas.
- **Antennas Concealed within Flagpoles:** The proposed text amendment allows the use of flagpoles to conceal antennas within them. However, there is disagreement whether this type of facility is an inappropriate use of the U.S. Flag and whether this type of facility violates flag protocol.
- **Indemnification:** There is disagreement whether the wireless companies should be required to indemnify the city of potential liability regarding radio frequency (RF) emissions.

Mr. Stabley reviewed the possible options for resolving the five outstanding issues.

Mr. Stabley stated the Planning Commission could leave the issues as they are currently addressed in the draft ordinance or they could provide alternative direction on the outstanding issues.

COMMISSIONER NELSEN inquired if the public notice is determined by the zoning. Mr. Stabley stated the draft as it stands today the 750-foot criteria would apply to all zoning categories. He further stated the Planning Commission could choose to amend

the ordinance to have different zoning categories but that would increase the opportunity for staff to make mistakes in noticing.

Commissioner Nelssen stated the wireless additions that would be placed on five-acre parcels would have to be architecturally integrated into the house or structure. Mr. Curtis stated the ordinance states it must be integrated into an existing structure.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

KEVIN HOWELL, 5239 N. 69th Place, Paradise Valley, AZ, representing Verizon Wireless, stated he has been attending the Wireless Committee for the past 18 months. He further stated the reason they are here tonight is because their constituents want better wireless service throughout Scottsdale at the same time everybody is concerned about the view shed. He commented clearly the discussion tonight is not about safety because that is within the purview of the FCC. He further commented he felt 99 percent of the issues have been addressed. He reported he felt Option C is the right option to address the issue of public notice.

OCTAVIO LAMAS, 7145 E. 1st Street, representing Qwest Wireless, stated he felt this document was a compromise and there are a few outstanding issue. He further stated he would encourage the Commission to pass the document as it stands.

ARTHUR MONES, 15050 N. Thompson Peak Parkway, spoke in opposition to this request. He outlined his concerns regarding the RF issue. He stated he would propose adoption of the Sunnyvale California language. He reviewed some of the shortcoming of Scottsdale's proposal verses Sunnyvales's adopted ordinance. He remarked the City cannot claim it has no knowledge of the risks from RF emissions. He inquired why should everyone be exposed to the dangers of RF emission. He also inquired why should Scottsdale not have an ordinance that protects the publics' health. The City should provide notification of existing wireless facilities and check on the compliance of the existing facilities. He commented he felt there were rather significant shortcoming with our document.

COMMISSIONER HEITEL inquired with regard to notifying residents about the wireless facilities how would they do that with homeowners changing homes. Mr. Mones stated with a disclosure document the Realtor could provide.

RON MESSERLY, One Arizona Center, Snell & Wilmer, representing Key Mobile Wireless and Arizona Public Service Company. He stated this is a tremendous effort by the Ideas Team and their efforts are greatly commended. He stated included in the Commission packet is an options chart that may help some of the members of the public with regard to RF emissions. He remarked in general they support the ordinance as drafted. He further remarked the primary issues from some of the members of public are regarding RF emission and the Federal Government regulates those issues. and local and state government cannot regulate that. He further remarked with regard to public notice he would be in favor of Option C. He concluded he would recommend they look to legal counsel with regard to the subject of RF emission.

COMMISSIONER NELSEN inquired if it was his opinion that the FCC monitors each wireless facility. Mr. Messerly replied in the negative but there is a reporting requirement and there is a compliance requirement for the operator. They don't independently monitor to the extent there is some sort of reported violation that would be investigated. Commissioner Nelsen inquired who does that monitoring. Mr. Messerly stated each individual provider would have a monitor to ensure compliance. Commissioner Nelsen stated it was his understanding that there was no monitoring the actual compliance came from the manufacturer of the equipment. Mr. Messerly stated in general the way one knows that something is out of compliance is because it stops functioning. Commissioner Nelsen stated that is part of the concern because of some of the locations that these facilities are being places in such as school yards and parks. What they are grappling with is how do they ensure the safety of our residents without undue government bureaucracy to assure there is a modicum of compliance and monitoring so we know if in fact a facility has gotten out of compliance. How long it has been out of compliance.

COMMISSIONER HEITEL inquired about the City's standing with regards to the Federal law regulating RF compliance. Ms. Bronski stated the Telecommunications Act preempts the city from passing ordinances or passing regulations based strictly on RF. Part of the recommendation for the Ideas Team is asking the city to submit various forms of documentation showing that they are in compliance.

GINNIE ANN SUMNER, 3333 E. Camelback No, 280, stated this has been a two year struggle and she would ask the Commission to support the wireless text amendment because she felt the outstanding issues would be best resolved by the City Attorneys Office, the Office of Telecommunications and the planning staff

HOWARD MYERS, 6631 E. Horned Owl Trail, stated he served on the Ideas Team. He further stated this is a very complex subject and he appreciates all of the effort everyone has put into it. The major goal was to have incentives to put in unobtrusive facilities. He remarked he did not think these limits should be compromised to fit any carriers current needs. He further remarked this also provides opportunities in areas that were very difficult to cover. Those areas that don't have a lot of vertical elements mostly in the ESLO area. He commented this really comes down to the nonconsensus issues. The basic issue is regarding whether the city should get involved with ensuring that the minimum permissible levels are met. He felt the City should take on some liability because they approve the facilities. They should at least notify people if there could potentially be a danger. Indemnification comes in if there are health problems then the City would be at risk. With regard to flagpoles, he was concerned with placing flagpoles where they would not normally go to allow for wireless facilities. He noted he felt using a US flagpole violates protocol and makes a commercial use out of the US flag. He further noted the nonconsensus issues are not unique to Scottsdale and other municipalities have done a lot of research. He concluded he felt it would be appropriate to move this amendment forward to City Council.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

VICE CHAIRMAN LOTZAR stated he would agree that the Commission should act and move this forward to the City Council. He further stated he felt this is going to be one of

those things we are continually coming back to revisit because of changes in technology. He remarked he felt it would be a good idea to have a map for the locations of existing wireless facilities so that it is easily accessible for folks. He further remarked he is not currently persuaded that the city is taking on any liability because of the Federal preemption on the issue seems to be the basis on the claims. Similarly, he is not persuaded that indemnification is required at this time because whether we require indemnification does not in any way exculpate the folks that may or may not be harming others. If they were harming others, they would be held liable. He commented going over the issues on issue No. 1; he would opt for Option A. Regarding issue No. 2, he would prefer Option B that they meet the FCC regulations. Given preemption anything else seems to be not necessary at this time but should be subject to further study. With regard to issue No. 3 continued monitoring that is not an appropriate requirement at this time. On issues No. 4 and No. 5, the draft ordinance is fine.

COMMISSIONER NELSEN discussed his experiences of working on the Ideas Team. He provided an overview of the purpose and goals of the Ideas Team. He remarked the glue of this document is the assurances for the public that these facilities that are going in, with the staff approval, has a system of checks and balances. He noted one of the reasons for the non-consensus on the outstanding issues was due to the complexion of the team. He further noted he would like to see staff draft some further options. He stated most of the issues have been addressed but he felt some more time and word smithing needs to be done on the non-consensus items. He further stated he would like staff to come back with a revised set of options that reflect some way to get the non-consensus items to the Council. He noted the Council is going to have to make the decision but he wants to make sure that it is very easily understood.

COMMISSIONER HENRY stated she felt they should not be putting wireless facilities on US Flagpoles because it violates the protocol. Although they could have wireless facilities on other flagpoles. She stated she is hearing two points of view this evening. The one that hits home is the cautionary point of view because it takes her back to her employment with a large manufacturing facility herein Scottsdale. Practices were in the environmental area where things that were poured into the ground but nothing was wrong with it. After the fact, they discovered these practices were making people sick so they had to clean up these types of things. There is also the area of safety from the OSHA standpoint. The compliance that business have to do today to meet OSHA and EPA requirements are because of the things that have happened in the past. She remarked she can understand the cautionary point of view on the RF emissions especially if the FCC does not go out and check on it. She further remarked she was surprised that the wireless community does not have to fill out paperwork annually stating they comply with the FCC regulations. Ms. Bronski stated the wireless companies have to provide a statement when they start a new facility that they comply with all of the FCC regulations for RF emission. She further stated she does not believe there are ongoing monitoring requirements.

Commissioner Henry stated she felt the City needs to be cautionary because they don't know if there is a problem. She further stated she felt they need to require the wireless community to annually report they meet the FCC regulations since the FCC does not require a follow up. She noted there is definitely a need for this amendment because there are more and more people using wireless products. She further noted she is not

quite sure how to approach the five areas of non-consensus. She commended the Ideas Team and staff for all of their hard work on this complex issue.

COMMISSIONER HEITEL stated he would like to see this amendment move forward with Commissioner Nelssen's suggestion that staff work on a couple non-consensus issues. He would like to see this move forward because it sounds like a tremendous asset to the City. Regarding the issue of public notice he felt they should create some sort of easily accessible map under Option A would be appropriate. He remarked he is concerned about existing facilities and continuing to provide notice to everybody as they move in. With regard to the radio frequency initial compliance Option B would seem reasonable. It would be appropriate in some fashion as long as it is not onerous regulation that some sort of monitoring would occur every five years to show the FCC regulations are being adhered to. With regard to the accumulative affect he would support Option A with the caveat that there is some additional thought on accumulative sites that there is a mechanism to monitor those accumulative affects. The indemnification issues should be left up to the attorneys. Regarding the flagpole issue, he would agree with Option A. He concluded his hat is off to all of those that worked on this.

COMMISSIONER NELSEN stated his suggestion was not to address the non-consensus issues tonight but to come back to a future meeting and have staff prepare a comprehensive list of options. He further stated his recommendation would be to pass the bulk of the ordinance forward and have staff come back on January 14th if that is an appropriate date. He noted they might even want to bring the Ideas Team back together for one meeting to look at that so that it is not just staff dealing with the non-consensus issues.

MR. GRANT stated staff could bring back a revised list of options at the January 14th meeting. He commented on the difficulty to boil something down where they can even get consensus on the wording of the options. So he would ask for the ability to try to summarize these in a way that you can question or anyone can question from the floor on whether it is accurate.

CHAIRMAN GULINO stated he would agree relative to your comments on keeping things more of a quantified rather than specific. He further stated regarding notification he is not aware of at what point when people would need to be notified when they would be subject to hazardous impacts from RF. He noted he did not know if that was an issue for them to discuss. He further noted he has not heard anything compelling that RF is in fact a problem. He remarked he would encourage on January 14th that the city does look at some ways to monitor or to enforce those guidelines rather than assume that they are taken care of somewhere else. There is direction that there needs to be some further fine tuning of this ordinance and bringing it back to the Commission. He commented he is not sure it needs to go back to the Wireless Ideas Team.

VICE CHAIRMAN LOTZAR MOVED TO FORWARD THE GENERAL OUTLINE OF 3-TA-2000#2 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL EXCLUDING THE FIVE NON-CONSENSUS ITEMS AND DIRECT STAFF TO COME BACK AT THE JANUARY 14TH PLANNING COMMISSION MEETING WITH ADDITIONAL INFORMATION ON ONLY THOSE FIVE ITEMS SO THAT THE

COMMISSION CAN CONSIDER THOSE FIVE ITEMS DURING THE COURSE OF THAT MEETING WITH MORE OF A MENU APPROACH. SECOND BY COMMISSIONER HEITEL.

COMMISSIONER NELSEN stated he was not suggesting they bring the Ideas Team back together but they should know staff has been busy e-mailing everyone on the Ideas Team. He further stated that would be the best way to communicate any of the changes made by staff.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).

VICE CHAIRMAN LOTZAR thanked Chairman Gulino for his outstanding service on the Planning Commission.

WRITTEN COMMUNICATION

There was no written communication.

ADJOURNMENT

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission was adjourned at 7:15 p.m.

Respectfully Submitted,

"For the Record " Court Reporters



**DRAFT MINUTES
SCOTTSDALE PLANNING COMMISSION
KIVA – CITY HALL
3939 N. DRINKWATER BOULEVARD
JANUARY 22, 2003**

PRESENT: David Gulino, Chairman
Charles Lotzar, Vice Chairman
James Heitel, Commissioner
Kay Henry, Commissioner
Tony Nelssen, Commissioner
Kevin Osterman, Commissioner
Steve Steinberg, Commissioner

STAFF: Pat Boomsma
Tim Curtis
Pete Deeley
Donna Bronski
Steve Lehmann
Dave Meinhart
Gary Meyer
Bill Peifer
Kevin Sonoda
Jerry Stabley
Cheryl Sumners
Bill Verschuren
Kira Wauwie
Randy Grant

CALL TO ORDER

The regular meeting of the Scottsdale Planning Commission was called to order by Chairman Gulino at 5:05 p.m.

ROLL CALL

A formal roll call confirmed members present as stated above.

OPENING STATEMENT

COMMISSIONER OSTERMAN read the opening statement which describes the role of the Planning Commission and the procedures used in conducting this meeting.

ELECTION OF CHAIRMAN AND VICE CHAIRMAN

VICE CHAIRMAN LOTZAR NOMINATED DAVID GULINO TO CONTINUE SERVING AS CHAIRMAN OF THE PLANNING COMMISSION. SECOND BY COMMISSIONER HENRY.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

COMMISSIONER OSTERMAN NOMINATED CHARLES LOTZAR TO CONTINUE SERVING AS VICE CHAIRMAN OF THE PLANNING COMMISSION. SECOND BY COMMISSIONER HENRY.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

MINUTES APPROVAL

1. December 11, 2002
2. December 18, 2002

CHAIRMAN GULINO stated Commissioner Henry has provided corrections to the December 11, 2002 minutes so they will submit those corrections and approved the revised minutes at the next meeting.

COMMISSIONER NELSEN request a correction to the December 11, 2002 minutes. On page 7, third sentence that reads: "He remarked they are wasting time". Should read: "He remarked the Commission would just be wasting time by delaying this process with a continuance".

COMMISSIONER HENRY stated she would like the public record to reflect that Commissioner Osterman was not at the meeting but the minutes show he seconded the motion under continuances. **VICE CHAIRMAN LOTZAR** stated the record should reflect that he was the appropriate person on Page 3 under continuances.

COMMISSIONER NELSEN stated on Page 14, middle of the last paragraph it states: "His point is the City has the right to abandon their interest in the GLO easement but the Federal government states there are still private rights on those GLO easements. Should read: "He presented to staff a document from Congressman Hayworth's office basically stating that Arizona State law supports both a private access right and a public access right."

COMMISSIONER HENRY reported she did not receive a copy of the December 18th meeting minutes.

CHAIRMAN GULINO stated they would defer approval of the December 18, 2002 meeting minutes to allow Commissioner Henry a chance to review them.

CONTINUANCES

3. 16-UP-1997#2 (Danny's Car Wash - Shea) request by Deutsch Associates, applicant, Pinnacle & Pima LLC, owner for amend an existing use permit for an automated carwash on a 2.5+/- acre parcel located at 7373 E Shea Boulevard with Central Business District (C-2) zoning. Staff contact person is Bill Verschuren, 480-312-7734. **Continued to February 11, 2003.**
4. 17-UP-1997#2 (Danny's Car Wash - Shea) request by Deutsch Associates, applicant, Pinnacle & Pima LLC, owner for amend an existing use permit for a service station on a 2.5+/- acre parcel located at 7373 E Shea Boulevard with Central Business District (C-2) zoning. Staff contact person is Bill Verschuren, 480-312-7734. **Continued to February 11, 2003.**

(CHAIRMAN GULINO DECLARED A CONFLICT ON CASES 16-UP-1997#2 AND 17-UP-1997#2 AND DID NOT PARTICIPATE IN THE VOTE.)

COMMISSIONER HEITEL MOVED TO CONTINUE CASES 16-UP-1997#2 AND 17-UP-1997#2 TO THE FEBRUARY 11, 2003 PLANNING COMMISSION MEETING. SECOND BY COMMISSIONER OSTERMAN.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0) WITH CHAIRMAN GULINO ABSTAINING.

EXPEDITED AGENDA

5. 25-UP-2002 (City of Scottsdale Well No. 123) request by Stanley Consultants Inc., applicant, City of Scottsdale, owner, for a conditional use permit for a city well (municipal use) on a .17 +/- acre parcel located at the northeast corner of Scottsdale Road and East Princess Boulevard with Open Space (OS) zoning.

MR. VERSCHUREN presented this case as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

COMMISSIONER STEINBERG stated the report states under Policy implications: "The front 27 feet of the 60-foot wide well enclosure encroaches into the 100-foot scenic corridor along Scottsdale Road". He inquired what will happen when they widen the Scottsdale Road portion between Frank Lloyd Wright and Pinnacle Peak will that encroachment get worse. Mr. Verschuren replied the 100 yard set back starts at the right-of-way line so the right-of-way they are expanding in already exists.

Commissioner Steinberg inquired if there was any proposed use for immediately around the proposed well site. Mr. Verschuren stated the site is an open site. Mr. Jones stated there are no plans or no leases being talked about on the State Land parcel.

COMMISSIONER HENRY stated she would like to clarify that the owner of the well site is the City of Scottsdale. Mr. Verschuren replied in the affirmative.

CHAIRMAN GULINO stated he would like to include in the packet to the DR Board that they pay attention to the height of the equipment in the well relative to the effectiveness of the wall to screen it.

VICE CHAIRMAN LOTZAR MOVED TO FORWARD CASE 25-UP-2002 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL INDICATING IT DOES MEET ALL OF THE USE PERMIT CRITERIA. SECOND BY COMMISSIONER HEITEL.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

9-AB-2002 (Boulder Mountain Estates/Mills Property) request by Maracay Homes Arizona LLC, applicant, Multiple Owners, owner, to abandon certain portions of the roadway easements located along 116th and 118th Street alignments and Ranch Gate Road alignment.

(VICE CHAIRMAN LOTZAR DECLARED A CONFLICT ON CASE 9-AB-2002 AND DID NOT PARTICIPATE IN THE DISCUSSION OR THE VOTE.)

MS. SUMNERS presented this case as per the project coordination packet. Staff recommends approval, subject to the requirements for street dedications along 118th Street and small portion along Ranch Gate Road as well as a public trail easement along the east side of 118th Street.

COMMISSIONER HEITEL inquired if the DR Board expanded that trail easement to 25 feet.

STEVEN VOSS, 7502 E. Main, stated it was expanded to 25 feet but only to be located on the east side.

COMMISSIONER HEITEL MOVED TO FORWARD CASE 9-AB-2002 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER HENRY.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0) WITH VICE CHAIRMAN LOTZAR ABSTAINING.

10-AB-2002 (Health South Abandonment) request by Shane & Karen Mustoe, applicant, Multiple Owners, owner, to abandon 50 feet of public right-of-way east of 96th Street, north of Shea Blvd.

MR. DEELEY presented this case as per the project coordination packet. Staff recommends approval, subject to the following stipulations:

- A drainage easement is reserved over, under and across the west 15 feet of the subject 50 feet right-of-way.
- The property owners will be responsible to remove the valley gutter and replace with a rolled curb to eliminate the appearance of a public street.

COMMISSIONER STEINBERG inquired if there were any drainage issues. Mr. Deeley stated there is drainage to the west of the actual right-of-way there is a 20-foot drainage easement and so the 15-foot would be the portion that you would see out of the paved area.

CHAIRMAN GULINO inquired if it was the property owner's responsibility to remove the existing curb and replace the roll curb. Mr. Deeley replied in the affirmative.

COMMISSIONER STEINBERG MOVED TO FORWARD CASE 10-AB-2002 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL, SUBJECT TO THE STIPULATIONS REFERRED TO IN OPTION A OF THE STAFF REPORT. SECOND BY COMMISSIONER HENRY.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

2-MP-2002#2 (Chaparral Park Expansion) request by City of Scottsdale Capital Project Management, applicant, City of Scottsdale, owner, for approval of a Municipal Use Master Site Plan for the Chaparral Park extension, including modified off-leash area and 2 new lighted sports fields. The subject property is 20+/- acres located on the north and south sides of McDonald Drive, east of Hayden Road, with Open Space (O-S) zoning.

MR. MEYERS presented this case as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

Mr. Meyers stated they did send an e-mail to Commissioner Lotzar that reviewed the policies regarding field allocation and scheduling of sports teams.

MR. LEHMANN, Senior Recreation Coordinator, presented information regarding the use of the sport fields at Chaparral Park during various seasons. He also presented information regarding the number of fields available for youth sports. He discussed how the fields could be used for little league and adult softball.

VICE CHAIRMAN LOTZAR thanked the folks at the Parks Department for their follow-up and detail. He requested the additional information Mr. Meyers referred to in the e-mail be included in the minutes of this meeting. The reason is because it clears up a number of issues of concerns with respect to use and restrictions on use with respect to fields. He stated he felt it was very encouraging that the city has taken a very active role in dealing with the field use issue and taken a leadership role in dealing with the school facilities. One of the great things that have come out this is the ability to have dialogue between the two separate governments. One government is the city and the other separate government being the School District. One of the great roles the city can take on in assisting youth sports is in the maintenance of those fields and scheduling of those fields.

(LISTED BELOW IS THE E-MAIL DATED JANUARY 17, 2002, VICE CHAIRMAN LOTZAR REQUESTED BE INCLUDED AS PART OF THE MINUTES.)

As a follow-up to the December 11th Planning Commission meeting, we are providing additional information regarding the use of sport fields at Chaparral

Park and throughout the city. We met with Commissioner Lotzar on January 8th to review our policies regarding field allocation and scheduling of sport teams. The attached information provides more documentation regarding sport field usage and sport field allocations. We also included xeriscape information from our Water Department in order to clarify the purpose and proposed use of the xeriscape demonstration area.

If you have any questions prior to the commission meeting, feel free to contact any of us at 480 312-2722. We look forward to seeing you at the Commission meeting on January 22nd.

Background on Little League Use of Existing Chaparral Ballfields

The four ballfields that are currently on the north end of Chaparral Park, located on Hayden, north of Jackrabbit Road were completed in 1974. At this time the "East Scottsdale Little League" was involved with the planning and development of those fields. In 1972, Paul T. Davis, then the Assistant City Manager for the City of Scottsdale, wrote a letter to Hallcraft Homes committing to "priority use of these fields [Chaparral Park] to the large little league organization working out of the Mohave School Area".

That commitment is still kept today. The City has since gone back and upgraded the lighting and will do so as needed in the future. Little League continues to have priority use during the Little League season on these fields. They do not have "exclusive use", but the East Scottsdale Little League and the outgrowth of that league, the McCormick Ranch Little League, continue to have priority usage of this facility during the little league season.

Xeriscape Demonstration Garden at Chaparral Park

The City of Scottsdale entered the No-Per-Capita Conservation Program by signing a stipulated agreement with the Arizona Department of Water Resources. One of the water conservation measures of the Program is an educational standard. The Xeriscape demonstration garden offers a unique educational opportunity to present information on using Xeriscape principles to create water-conserving landscapes. Xeriscape landscapes enhance the environment even through naturally occurring dry periods.

Urban landscapes are closely tied to our water supplies. High-water-use landscapes account for 50-80% of residential water use.

In a survey that was conducted during 2002, citizens demonstrated their support by responding to a survey in which 90% of respondents reported that they would value viewing landscape specimen plantings to help them make informed landscape choices.

The Chaparral Park site is outstanding in that it meets the guidelines for demonstration gardens and has the added advantage of being adjacent to a water treatment facility with funding associated to the landscaping of that facility.

In addition, the landscape architect firm engaged for renovation of the park, Ten Eyck Landscape Architects, was recently recognized with a Valley Forward Crescordia Award for environmental excellence for their remarkable work at the Desert Botanical Garden.

There are other environmental benefits associated with Xeriscape landscaping. It benefits homeowners by reducing water bills and maintenance costs through the use of beautiful drought-enduring landscapes. It benefits the local community by enhancing regional identity.

Chaparral Park presents a unique opportunity to demonstrate the many interrelated benefits of Xeriscape and add a valuable educational element to the park experience.

COMMISSIONER OSTERMAN stated this has come a long way since April.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

SCOTT MILLER, 5814 N. 81st Street, stated he lives adjacent to the subject property line. He further stated don't let the number of residents that happen to speak tonight make you think their concerns have dwindled. There are still the same issues but they are tired of saying the same things. He expressed his concerns regarding the drainage pond that is currently on the property. He reported he is concerned about the number of dogs that continue to run free in the unfenced area. There needs to be more strength in reinforcing the rules. He asked if there was a phone number to call to report these incidents. He reported the group that was assembled for this project has done an outstanding job and he felt this case should be moved forward.

JOHN BARNES, 7737 N. Via De La Montana, stated he was here on behalf of youth sports. He further stated he fully supports this plan. They have done a great job in trying to address everyone's needs. He reported he attended the joint meeting between the city and the schools and was very excited about cooperation between the two groups because they all seem to want to work together to make all of the fields as nice as possible.

BILL SHOWKEIR, 5868 N. 81st Street, stated he recognizes the popularity and desirability of the off leash area as an amenity to the city, but it is not desirable to the homeowners in the area because it is noisy, smelly and is currently not kept up very well. He further stated he would request this area be located as far away from the residences as possible. He noted a lot of the questions he has about the operation are based on the current site. He further reported there is a high number of people that let their dogs run free outside of the off leash area and he cannot walk his dog outside of his house. He reported currently the site is locked up at night but once the golf facility goes away what would keep it from becoming a 24-hour facility. He further reported as early as 6:00 AM there are 10 to 15 cars there in the morning and people are allowing their dogs to run in the open fields. He inquired if the City would be providing any monitoring. He commented he is in favor of the ballfields. He inquired where the public trails would be.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

MR. MEYERS stated loose dogs are an ordinance violation and would be enforced by the Police Department. He further stated once they are in the new facility there will be more opportunity to maintain the facility. He reported there is a security service that locks up at 10:00 PM. He reviewed the access for the site.

VICE CHAIRMAN LOTZAR inquired when the renovations to the existing park facility would come on line. Mr. Meyers replied they should be completed by the fall of 2005.

COMMISSIONER HEITEL stated regarding the issue of the dogs being off leash in the ballfield he felt the city should take a more proactive approach rather than telling them to call the police. He further stated they might need to educate the dog owners regarding this issue.

COMMISSIONER HENRY inquired if the off leash area is currently fenced and they enter through a gate. Mr. Meyers replied it is fenced and they enter through a double gated area. Commissioner Henry inquired if there was any signage currently at the site. Mr. Meyers replied in the affirmative. Commissioner Henry stated she would agree the city should be proactive and provide better signage and provide education for the dog owners. She further stated calling the police every time there is a loose dog will not work. This issue needs to be looked at.

COMMISSIONER NELSEN stated he hopes this moves forward to the City Council with the greatest possible speed. He further stated he felt this is a very workable plan. He noted he felt once everything is in place it should be easier to monitor

COMMISSIONER NELSEN MOVED TO FORWARD CASE 2-MP-2002#2 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER OSTERMAN.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

VICE CHAIRMAN LOTZAR stated he thought that the issues regarding and signage and rules for the off leash area are things that have been talked about and are in process. He further stated he would appreciate if they could put signs around the ballfields indicating you should not have your dog at the ballfields would be nice.

Vice Chair Lotzar stated Dick Tooker recently passed away and he served as a Board of Director on the McCormick Ranch Little and he was recognized for doing a lot for youth sports. He further stated as they revisit these fields he thought it would be nice to have a memorial acknowledging his past service because he did a lot for the city in a quiet way.

21-ZN-2002 (The Legends at Toscana) request by Legend Development, applicant, Collin Thorstenson, owner, to rezone from Single Family Residential (R1-35) to Single Family Residential, Planned Residential District (R1-7, PRD) including amended development standards on a 10 +/- acre parcel located at 12855 N 94th Street.

MR. CURTIS presented this case as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

COMMISSIONER NELSEN commented on the suburban use as opposed to rural use, which would go along with equestrian use. He further commented there is not that distinction that suburban use is inappropriate for equestrian use.

COMMISSIONER HENRY inquired if the current owner of the Buffalo Ranch is selling that property because there are sales pending so he is getting out of the ranch business. Mr. Curtis replied that is his understanding. He stated he is not sure if he is getting out of the business but it would not be at this location.

COMMISSIONER STEINBERG inquired what are some of the options they are exploring for acquiring the northern portion of the site. Mr. Curtis reported the Engineering Department and Capital Improvements Department are dealing with the drainage issues and looking at different ways to solve this. Commissioner Steinberg inquired how long that process has been going on and when they expect to conclude. Dave Meinhart replied they are trying to wrap up a final recommendation on the solution for the storm water retention basin in the next few months. Commissioner Steinberg inquired if staff felt Phase 2 would be detrimental to solving the drainage problem. Mr. Meinhart stated staff felt Phase 2 would support the flood control project. Mr. Grant stated the regional storm water drainage solution could occur with Phase 2.

COMMISSIONER HEITEL stated they are being requested to approve a plat to increase the density on a phase of the property that the city may come back after they have increased the density on and have to repurchase it with higher density at an increased value from the applicant. Ms. Boomsma replied if they have to condemn the property it would be at the value that the Court determines whether or not it is rezoned it will be based on the highest and best use. She stated if the question he is leading toward is if they are increasing the cost to the city that is not a good consideration to make because that is not what the court will look at when making a decision. She further stated she would strongly recommend that the commission members reasons for approving or disapproving this particular case not be based on the city's desire to purchase it in the future because that will defeat the purpose.

COMMISSIONER NELSEN inquired how many properties could be developed under the existing zoning. Mr. Curtis stated nine lots could be developed with the existing zoning. Commissioner Nelsen inquired even with the drainage. Mr. Curtis replied that would have to be taken into consideration with the nine lots the drainage easements could be on certain lots in the front and rear yards.

CHAIRMAN GULINO stated they run the risk of a conflict of interest when they start considering the fact that the city wants to acquire the land as drainage. The Commission needs to focus their consideration strictly on the land use and merits of the site plan. He further stated he would encourage staff to finish their report and make a decision so they can acquire the land before it continues to rise in value.

ANDY ABRAHAM, 702 E. Osborn, Phoenix, AZ, applicant, presented an overview on the land use for this project. He stated what they are proposing is consistent with the

General Plan and it is consistent with the Cactus Corridor. He discussed the amended development standards. He reported in exchange for amended development standards they are offering significant amenities on the site plan. He further reported there would not be a negative impact on the existing traffic levels.

Mr. Abraham stated regarding the drainage issue they have been working closely with staff to figure out a way to allow his client to go forward yet preserve the opportunity for the city to do what it deems necessary to solve this issue. He remarked he felt they were on the same page working together.

COMMISSIONER HEITEL stated from a land use standpoint they might not need to come to them for amended development standards if they were not cramming this project so tightly. Mr. Abraham stated they did not feel like they were cramming this site because they are consistent or less dense than the surrounding neighborhoods.

COMMISSIONER NELSEN stated the applicant has unanimous support from the contiguous community. He inquired what were the specific reasons for support. Mr. Abraham stated there has been a history of concern about the current use and the neighbors have been frustrated with the current use. The neighbors were very encouraged about a development that is consistent with the residential. He further stated equestrian is no longer consistent with the balance of the neighborhood. Commissioner Nelsen stated he appreciates that, however, it is that kind of thinking that has eroded the equestrian lifestyle in the entire Cactus Corridor. He further stated it is one thing to build to the existing zoning. It is another thing to ask for four times the existing zoning. He remarked the justification for the amended development standards is to provide major community benefits. He inquired which community are they speaking of. This subdivision or the community at large. Larry Brandon stated their intention is to create an atmosphere within their community with architecture, open space, and park that will be self-contained within their community.

Commissioner Nelsen stated he is an advocate of the equestrian community. They have a General Plan that says this area is not appropriate for equestrian use and he will honor that but he does not agree with it. He reported they have had a record year for drought so how can they consider four times as many residents than what is currently zoned. He further reported they are having difficulty meeting the needs of the existing residents with regard to infrastructure. Granted this is a very small project but it is just a continuance of a process that has got us where we are today. He noted he felt the drainage issues needed to be answered. He further noted he would need a lot more information to support this.

CHAIRMAN GULINO stated with regard to the amended development standards, he inquired if the applicant would be comfortable with a 30-foot aggregate and essentially take a 15 foot front yard setback and a 15 foot rear setback. He requested the applicant think about that during public testimony.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

JACQUELINE REICHMAN, 12926 N. 95th Way, spoke in support of this project. She stated she is President of the Homeowners Association for Sweetwater Ranch Manner

II. She further stated the 61 homes in this community support this project. She remarked she has letters of support from residents in her community that was not able to attend. She read a letter from the President of the Master Association stating they are in agreement with the plans and support the zoning. She also read an e-mail from the President of Manner One Association who also supports this project. She reported they will all benefit from having luxury homes on this site.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

MR. ABRAHAM stated with regard to the request to have a 30-foot aggregate for the front and rear yard setbacks that would request 35-foot aggregate to allow for some flexibility.

COMMISSIONER NELSEN commented the Commission has received a letter from Susan Wheeler and she makes some very bold statements about the usefulness of the trail. He also commented the letter states she attended a meeting with the developer who told the group that there was a horse buyer to buy the property as a threat to the neighbors. Mr. Brandon stated that is not a correct statement.

Commissioner Nelsen stated the letter indicates the size of the property is gross 10 acres. He further stated he believes it is less than 7 acres with the roads taken out and the wash. Mr. Brandon replied it is a gross 10-acre site. Commissioner Nelsen stated closer to 8.5 that is actually buildable. Mr. Brandon replied in the affirmative. Commissioner Nelsen stated he has concerns regarding what happens here sets a precedence for the next ranch that goes up for sale and how development occurs in the City of Scottsdale. He further stated Ms. Wheeler is very concerned about the trails in the Cactus Corridor. Mr. Meyers provided clarity on the future trails in this area. He stated they are working with the Transportation Department to work on a trail into the cross section with good buffering. Commissioner Nelsen stated he is concerned about the separation between the automobile traffic and the actual surface of the trail. He commented there are a lot of unanswered questions and they are being asked to approve this before they are answered. Mr. Meinhardt provided information regarding the potential buffers along Sweetwater and Cactus.

Commissioner Nelsen expressed his concern that they are going from a relatively low use on this property to quadrupling the existing density and how it will impact the traffic and the equestrian use in the neighborhoods around there. He stated he does not think people realize what kind of an impact this type of communities have on the existing equestrian community. He also expressed his concern regarding combining the equestrian use, which is traditional part of Scottsdale's heritage, with increased traffic. He remarked it has already been done in this area but his issue is that they are continuing to promote that. He discussed his concern regarding not having the appropriate infrastructure to support those areas that still have equestrian because they are eroding that lifestyle. He concluded he does not have all of the answers because it seems to hinge on the drainage issue as to how this subdivision will finally be platted.

COMMISSIONER HENRY stated she has a short little speech. This is called reality. If you read the newspaper in just the last couple of days it states farmlands in this area are being driven out because we are growing. There are thousands of people moving into

the Valley every year and we are building houses to house those people. What is happening is that the equestrian farms, the ranches, the farm land, and the orchards are being pushed out because the City is engulfing them so people are having to relocate. She further stated she is very sympathetic to the situation but it is what is happening in the whole country.

Commissioner Henry stated she drove out to this area because she was concerned because currently they have a ranch and now they are going to have houses. She further stated when she drove into this neighborhood the development that is being proposed fits in with what else is there. The ranch looks like it does not belong.

VICE CHAIRMAN LOTZAR stated from his vantagepoint he would agree with Commissioner Henry. He further stated he felt they should not hamstring the applicant because of the wash issue, which is more of a regional issue than this property. He further stated he felt the solution that has been fashioned is a good one. He added he appreciated the opportunity to serve the needs of the applicant and the surrounding community. He concluded he would be voting in favor of this request.

COMMISSIONER HEITEL stated he would not support this case. He further stated he does not think it is an issue of future drainage issues. He remarked he sees a transition in zoning toward the south to larger R1-18, R1-10 lots. The adjacent property owners are R1-7. He further remarked he would question the amended development standards especially the amended rear yard setbacks and what impact it will have on the adjacent property owners. He commented he felt the amended development standards just allows more density than a proper site plan would allow. Amendment of these kinds of development standards and certain density issues in a site plan provide meaningful open space or meaningful trails or other meaningful amenities to the community and that makes some sense to him. This kind of site plan does not make sense to him. He concluded he would not be supporting this case.

COMMISSIONER OSTERMAN stated he understands the concerns of the equestrian community as far as the shrinking of available equestrian areas. He further stated he can't believe by reserving this area right smack in the middle of such high density building that it would help in anyway to preserve the equestrian lifestyle. He remarked he did not believe that there was any better use for this property than to rezone it and to have the proposed density. It is a beautiful plan. It will add value to the City of Scottsdale and the surrounding properties. He concluded he would support this case.

COMMISSIONER STEINBERG stated he would like to echo what Commissioner Henry said. He further stated the proposed plan is more consistent with the land use in this area and will be a good addition to the area. He concluded he would support this project.

CHAIRMAN GULINO stated he would like for the maker of the motion to consider adding the stipulation requiring a 35-foot aggregate. What essentially that would do is take a 10 foot front yard leaving the rear setback at the unamended distance and vice versa.

Chairman Gulino stated he would agree that it is unfortunate that the Cactus Corridor has changed in the way that it has given some of the characteristics in the City of Scottsdale. This problem occurred a long time ago. This development is in character with the surrounding neighborhood. He reiterated he would be in favor of modification to the amended setbacks that would add an aggregate between the front and the rear yard of 35 feet.

Chairman Gulino stated with regard to the drainage issue he felt it would be unfair if the Commission, staff, or City Council impede or hamper with the property rights of the Applicant while they decide what to do regarding the drainage issue. He further stated he would encourage staff to take that into consideration on the phasing of this plan. He remarked if the phasing is a result of the discussions regarding the retention he felt that should be removed and the applicant should be able to move forward, as he desires. He further remarked he says that with the City's best interest at heart. He added he felt they are opening themselves up for a lot of liability and it is not playing fair.

COMMISSIONER NELSEN stated he has heard a lot of discussion regarding the fact that it is unfortunate this problem occurred in the past but that is no reason to increase the existing zoning. This property should be developed as R1-35. They would not be taking anything away from the property owner. He remarked he has heard a nice lecture from his partner here on his right and it is exactly that kind of thinking from other members on the Commission that has gotten Scottsdale and other communities in the Valley bitching about the same thing. It is bad planning. It should not have started and it has got to stop some place. When they have enough resources such as water, clean air, police, and fire protections then we can start saying bring on some more. He reiterated he would not be supporting this case.

VICE CHAIRMAN LOTZAR MOVED TO APPROVE CASE 21-ZN-2002 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL WITH AN AMENDMENT TO THE STIPULATION THAT THE AGGREGATE BETWEEN THE FRONT AND REAR YARD IS UP TO 35 FEET. SECOND BY COMMISSIONER STEINBERG.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO TWO (2) WITH COMMISSIONER NELSEN AND COMMISSIONER HEITEL DISSENTING.

3-TA-2000#2 (Wireless Communications Ordinance Text Amendment) request by City of Scottsdale, applicant/owner, to update Ordinance No. 455 (Zoning Ordinance) pertaining to Wireless Communications Facilities.

MR. STABLEY presented this case as per the project coordination packet. He stated on December 18, 2002, the Planning Commission approved the draft ordinance except for the outstanding items. The Planning Commission directed staff to provide additional information regarding the outstanding items. He stated they are not asking for a vote tonight they are just requesting the Commission provide them with direction on the outstanding issues and they will incorporate that direction into the ordinance and return on January 28th for a vote. Those outstanding items are summarized as follows:

- **Public Notification:** The proposed text amendment requires property owners within 300 feet be notified of all new wireless communications facilities. However, there are

differing opinions regarding notification of residents located further from the site and notification of other potentially affected citizens.

- **Radio Frequency (RF) Initial Compliance:** The Federal Communications Commission (FCC), not the City of Scottsdale, regulates RF emissions. There is disagreement regarding whether the city should verify if FCC RF regulations are met for new sites.
- **Radio Frequency (RF) Continual Monitoring:** There is disagreement regarding whether the City should be responsible for the continual monitoring of RF emissions, including the cumulative impact of multiple antennas.
- **Antennas Concealed within Flagpoles:** The proposed text amendment allows the use of flagpoles to conceal antennas within them. However, there is disagreement whether this type of facility is an inappropriate use of the US Flag and whether this type of facility violates flag protocol.
- **Indemnification:** There is disagreement whether the wireless companies should be required to indemnify the city of potential liability regarding radio frequency (RF) emissions.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

GEORGE GNATOVICH, 8711 E. Pinnacle Peak Pkwy, stated he sat on the wireless communications committee. He further stated the issue he has is regarding using flag poles and mono poles. He discussed his background in the wireless industry. He further noted he does not like the US Flag pole being used as camouflage or disguise. He further noted he contacted the National Flag Foundation and it was their opinion that if a US flag pole is being used for commercial gain one has to think twice about the purpose of displaying that flag. When displaying the national symbol their motives should be pure. In this instance, they did not feel the motive was pure and not appropriate for cellular companies to place a flag on a mono pole just to improve their service. He reported the industry discovered if they used the Arizona flag there is not a code, which only went to show that it was not a patriotic gesture it was just a method of getting a mono pole. He presented information on the mono pole and its dimensions. The size of a mono pole distracts from the beauty of the flag and they do not fly properly on mono poles.

Mr. Gnatovich requested that they delete the word flag and flagpole where ever it appears in the matrix thereby whatever is there is called a mono pole.

ARTHUR MONES, 15050 N. Thompson Peak Pkwy, reported he has been in the technology business including the telecommunications business for 35 years. He further reported he has empathy for the people on the other side but that does not include having them act irresponsibly. The objective is to have an ordinance that is optimum within the 1996 Telecommunications Act such that it protects the health of our residents to the extent possible. Notifies people and their children about the proximity of antennas. Provides indemnification, which affects everyone's financial interest. The staff draft ordinance does not do that. There are models they could have used Sunnyvale has a ordinance that has not been legally challenged and there are ordinances in the same category. It is not a coincidence that the wireless industry people are delighted with the staff ordinance because they were the majority of the wireless committee.

Mr. Mones stated concerning limitations there are two that are important. One provides reasonable discrimination among providers. Two stipulate RF emission exposure more stringent than the Telecommunications act does. He further stated there is no question that RF is a hazard. Every resident deserves as much protection as possible.

Mr. Mones stated he believes the structure and character of this two part meeting with a six day gap is not a public meeting and it is illegal to the spirit of open meetings and is contrary. He further stated he believes this is not an open meeting.

OCTAVIO LAMAS, 7145 E. 1st Street, thanked all of the members of the Ideas Team who have been dedicated to try and craft some kind of ordinance. He stated he takes exception with the comment that the Ideas Team was mainly made up of the wireless industry because that is not the case. There is a logical and reasonable middle ground and he would hope the Commission would not gravitate to either extreme. Although Qwest did not get everything they wanted they would support the draft ordinance. He remarked he felt keeping and maintaining the dignity of the flag is on everyone's mind. He further remarked he does not believe this particular deployment tarnishes this cherished symbol.

CHAIRMAN GULINO stated he is concerned about the hazards of the RF emissions. He inquired about the current state of information regarding whether they are hazardous.

ERIC UNRUH, 7145 E. 1st Street, stated he is a RF engineer for Qwest. He further stated he is not a medical expert on the affect of RF emissions on human bodies. The only thing he can say is that he refers to the guidelines the FCC has put forth. The wireless industry refers and abides by the restrictions set forth by the FCC.

KEVIN SONODA stated the World Health Organization as well as other organizations around the world has had studies ongoing about the RF in terms of antennas with cell sites as well as antennas for cell phones. At this point, there is no conclusive evidence of radiation damage or biological damage to humans based on cell sites as well as cell phones. It is inconclusive at this point.

COMMISSIONER STEINBERG inquired if future technology would increase the admittance of RF or will it decrease. Mr. Unruh replied it would decrease.

COMMISSIONER NELSEN stated he does not think they are discussing whether RF emissions are dangerous because the FCC has set guidelines regarding this issue. The issue before us is who monitors that and how often is it monitored.

GEORGE TSIOLIS, One Arizona Center, Phoenix, AZ, Snell & Wilmer, representing T-mobile and APS, stated they would support the December 13th draft as written although they believe it has problems with regard to preemption by federal law and some of its provisions.

CHAIRMAN GULINO stated Mr. Tsiolis reference to the December 13th draft means nothing to him. Mr. Stabley stated the draft before the Commission is the same draft from December 18th. Vice Chairman Lotzar stated that at the last meeting the

Commission approved the draft subject to the five outstanding issues so they are not discussing the prior draft only the five outstanding issues.

MR. TSIOLIS stated they would recommend there are not any additions to the ordinance that would result out of those five issues. He further stated the City should be careful it does not create a product that exposes them to litigation case by case siting application. He remarked the City of Scottsdale must adhere to the Telecommunications Act of 1996. He further remarked the local ordinances should not duplicate or exceed the FCC's rules.

COMMISSIONER NELSEN stated several other communities require monitoring or indemnification. He inquired if Mr. Tsiolis is saying these are illegal. Mr. Tsiolis replied in the affirmative. Commissioner Nelsen inquired why have they not been challenged by the wireless community. Mr. Tsiolis stated it is the beginning of a trend that was not picked up on until it was too late for those jurisdictions.

COMMISSIONER HEITEL asked a series of questions regarding what precludes the city from requiring monitoring on a periodic basis that they continue to comply with the FCC regulations. It would just be a notice to the City that overtime these facilities are still in compliance. Mr. Tsiolis replied the act expressly preempts local ordinances concerning environmental effects of RF emission. He noted the more the city gets involved in health issues the more they open themselves to litigation.

COMMISSIONER NELSEN inquired if Mr. Tsiolis was volunteering his time this evening. Mr. Tsiolis replied he is here this evening on behalf of his client.

Commissioner Nelsen inquired what is the city's position regarding requiring periodic monitoring not to exceed the FCC guidelines but just to make sure it is consistent. Ms. Bronski replied the devil is in the details on this issue. She stated the city could require submission of reports that are already being provided to the FCC. The City could do its own monitoring and checking if it wanted to but it does raise the point whether it would be practical. They would not be allowed to deny siting requests because of fears about the affects of RF emissions then they are getting dangerously close to violating the provisions in the Telecommunications act.

LAURA ALTSCHUL, 12920 SE 38th Street, Bellevue, WA, 98004, stated she is the National Director of Government Affairs for T-mobile USA. She further stated she has a personal interest in Scottsdale because her parents have lived here since 1984, her in laws live here and she visits here frequently so she does not want her parents to be living in a community where there is not a fair and reasonable wireless ordinance. She remarked Scottsdale has taken very good steps in reaching a fair and reasonable ordinance. She further remarked the issue of RF emission is very important to the industry and they have demonstrated nationally they have addressed this issue. She presented information regarding the importance of self-regulating. She reported they are far below the power levels than is recommended by the FCC. If something goes wrong with a site, it is immediately fixed.

Ms. Altschul reported this community has a very high demand for wireless service.

CHAIRMAN GULINO inquired if T-mobile was opposed to any type of monitoring report that would be required every two years. Ms. Altschul replied they are glad to submit anything that is required by the FCC to the city. Chairman Gulino inquired if the FCC requires anything after the facility goes up. Ms. Altschul replied they are only required to provide additional information if there is a co-location site. Chairman Gulino stated they are hearing all of these assurances that these sites are well below the limits but nobody is stepping up and offering to provide monitoring every two years to assure us they are in compliance. Ms. Altschul stated they have designed their sites and the emission that comes from those sites to clearly be within the law. They abide by the Federal law. They do not want to get into a situation where monitoring is required on a city by city basis. They do not see any reason for the city to add another level of monitoring.

COMMISSIONER HEITEL inquired how does the Federal Government deal with the issue of compliance once a facility is up. He also inquired if she is suggesting the Federal government does not care about the facility once it goes up. Ms. Altschul stated she felt the Federal government cares quite a bit. She further stated any citizen can bring a claim or petition before the FCC inquiring on any site within their community. Ms. Altschul reported they regularly monitor their sites to make sure the emissions stay within the power levels and emission stay within or the networks go haywire. They know exactly what is going on with the sites at all times. She added they object to the city adding another level of administrative burden. Commissioner Heitel stated the intent is when they put in a new facility that they continue to monitor it periodically to ensure that it stays in compliance. If they found a facility that was out of compliance, they would notify the City. Ms. Altschul stated the city does not have the right to insist on an extra level of monitoring.

SUSAN BITTER SMITH, 5806 E. Lewis, stated she served on the Wireless Ideas Team for close to three years. She further stated as they have heard the state and local governments can only address aesthetic when addressing siting issues. The role of the FCC is to address health and safety issues. She remarked she would advocate that they look at options that are within their purview. Asking for additional monitoring is not within their jurisdiction. She would suggest the City ask for a letter from the carrier on an annual basis that states all of the sites within their jurisdiction comply with the Federal regulations. She added she would encourage them to look at options provided by the Ideas Team.

COMMISSIONER NELSEN asked a series of questions regarding the FCC's jurisdiction to monitor. Ms. Bitter Smith provided a brief overview of the FCC's jurisdiction. Commissioner Nelsen stated the question is whether the city should request periodic monitoring at school and park site and other sensitive areas.

KEVIN HOWELL, 5239 N. 69th Place, representing Verizon Wireless. He stated he also sat of the Wireless Ideas Team. He further stated the only thing they disagree with would be the requirement to provide 300 foot notices on staff approvals. The rest of the ordinance they thing staff and the Ideas Team have done a good job on. He commented with the new technology the power levels have come down. He further commented these sites are monitored 24 hours a day, 365 days a year.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

VICE CHAIRMAN LOTZAR suggested the Commission goes through each of the five outstanding issues and provides staff with direction regarding which option they prefer.

CHAIRMAN GULINO reiterated that the Commission would not be voting this week but rather just providing staff with direction that will be incorporated into the ordinance and return on January 28th for a vote.

MR. STABLEY reviewed the possible options for resolving the outstanding issue #1A.

COMMISSIONER OSTERMAN stated he would recommend no change with the addition that additional printed notice either in the newspaper or on the website.

COMMISSIONER HEITEL stated he would support draft Option A but with the requirement in R1-43 or greater the notification distance is changed to 750 feet.

VICE CHAIRMAN LOTZAR stated he would recommend they stay with what is currently in the ordinance.

COMMISSIONER NELSEN stated he would go with Option B with the exception that R1-43 and above goes to 750 feet.

COMMISSIONER HENRY stated she would like to go with Option A and include the information on the website.

COMMISSIONER STEINBERG stated he would go with Option B with the exception that R1-43 and above goes to 750 feet.

CHAIRMAN GULINO stated he would support draft Option A but with the requirement in R1-43 or greater the notification distance is changed to 750 feet.

MR. STABLEY inquired if that would apply to staff approvals. Chairman Gulino replied in the affirmative.

MR. STABLEY reviewed the possible options for resolving the outstanding issue #1A.

COMMISSIONER NELSEN stated he is leaning toward Option C particularly if this public notice could be included on the website and possibility even City Cable 11.

COMMISSIONER HENRY stated she would be in favor of Option C.

COMMISSIONER STEINBERG stated he would be in favor of Option C.

COMMISSIONER OSTERMAN stated he would support Option C with a map of the antenna sites on the website.

COMMISSIONER HEITEL stated he would support Option C with a map of the antenna sites on the website.

VICE CHAIRMAN LOTZAR stated he would support Option A.

CHAIRMAN GULINO stated he would support Option C with a map of the antenna sites on the website.

MR. STABLEY reviewed the possible options for resolving the outstanding issue #2.

COMMISSIONER STEINBERG stated he would endorse Option C.

COMMISSIONER HENRY stated based on everything she has heard tonight as far as monitoring it is not in their purview. She further stated she felt it would be reasonable for them to suggest the City ask for a letter from the carrier on an annual basis that states all of the sites within their jurisdiction comply with the Federal regulations.

COMMISSIONER NELSEN stated he tends to go with Option D without requiring an engineer to measure in the field.

VICE CHAIRMAN LOTZAR stated he would support Option A.

MR. STABLEY reviewed the possible options for resolving the outstanding issue #3.

COMMISSIONER OSTERMAN stated he would support Option B.

VICE CHAIRMAN LOTZAR stated he would support Option A because he would hate to see it go beyond their jurisdiction.

COMMISSIONER NELSEN stated he would support Option C.

COMMISSIONER HENRY stated she would support Option B

COMMISSIONER STEINBERG stated he would support Option B

COMMISSIONER HEITEL stated he would support Option B.

CHAIRMAN GULINO stated he would support Option A.

MR. STABLEY reviewed the possible options for resolving the outstanding issue #4.

COMMISSIONER HEITEL stated he would support Option B and change the word flag pole to mono pole.

VICE CHAIRMAN LOTZAR stated he would support Option A.

COMMISSIONER STEINBERG stated he would support Option B.

COMMISSIONER HENRY stated she would support Option B and change the words flag pole to mono poles.

COMMISSIONER NELSEN stated he would agree with Commissioner Henry.

CHAIRMAN GULINO stated he would support Option B.

COMMISSIONER OSTERMAN stated he could support Option A or Option B.

MR. STABLEY reviewed the possible options for resolving the outstanding issue #5.

VICE CHAIRMAN LOTZAR stated he could support Option A.

COMMISSIONER NELSEN stated he could support Option B.

COMMISSIONER HENRY stated she would support Option B.

COMMISSIONER STEINBERG stated he could support Option B.

COMMISSIONER OSTERMAN stated he could support Option A.

COMMISSIONER HEITEL stated he could support Option A.

CHAIRMAN GULINO stated he would support Option A.

VICE CHAIRMAN LOTZAR MOVED TO CONTINUE CASE 3-TA-2002 TO THE JANUARY 28TH PLANNING COMMISSION MEETING. SECOND BY COMMISSION HEITEL.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

WRITTEN COMMUNICATION

There was no written communication.

ADJOURNMENT

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission was adjourned at 9:20 p.m.

Respectfully Submitted,

"For the Record " Court Reporters

Planning Commission Report



MEETING DATE: February 11, 2003 ITEM No. _____ GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT **Downtown Overlay and Related Issue Text Amendment**

REQUEST Request to initiate a text amendment to create a Downtown Overlay and to address issues related to live entertainment and drive through establishments.
47-PA-2003

**APPLICANT AND
STAFF CONTACT** Jerry Stabley
Principal Planner
480-312-7872
E-mail: jstabley@ScottsdaleAZ.Gov

BACKGROUND **History/Context.**
In October of 2002 the City Council held a study session to discuss issues related to Downtown Scottsdale. Staff presented a number of programs that the city could pursue to improve Downtown. The City Council agreed with most of the items that were presented, and then gave staff direction on priorities and timing around the end of November. This initiation will start the process of amending the Zoning Ordinance to allow many of the Council's goals to be met.

PROPOSAL **Goal/Purpose of Request.**
This initiation will allow staff to work on the amendment and open a dialogue with property owners, business owners and other citizens interested in Scottsdale's Downtown.

This amendment is slated to address the following issues, and other related issues that may arise as part of the process:

- Increased nightclub and bar activity has contributed to parking, property and maintenance concerns
- Complex and confusing parking requirements has made reinvestment in Downtown more difficult
- Land uses such as tattoo and massage parlors has had a real or perceived negative impact on Downtown.
- Existing commercial zoning has made it difficult to develop residential uses in Downtown.

Community Impact.
The health of Downtown Scottsdale is very important to the community. These amendments are designed to address some long-standing issues, and resolving these issues should help Downtown to prosper in the future.

Time Table.
Staff's goals are to do public outreach in February and March. Hearings for

this text amendment are slated for April for the Planning Commission and May for the City Council.

**OPTIONS AND STAFF
RECOMMENDATION**

Description of Option A:

Planning Commission could choose to initiate this text amendment.

Description of Option B:

Planning Commission could decide against the initiation of this text amendment.


Recommended Approach:

Staff recommends the initiation.

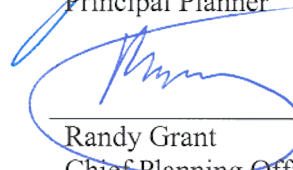
RESPONSIBLE DEPT

Planning and Development Services Department
Current Planning Services

APPROVED BY



Jerry Stabley
Principal Planner



Randy Grant
Chief Planning Officer

Planning Commission Report



MEETING DATE: FEBRUARY 11, 2003

ITEM NO.

GOAL: Coordinate Planning to Balance Infrastructure

REQUEST**Danny's Car Wash - Shea**

Request to amend existing use permits for a car wash and service station on a 2.5+/- acre parcel located at 7373 E Shea Boulevard with Central Business District (C-2) zoning.

16-UP-1997#2, 17-UP-1997#2

CONTINUANCE DATE

March 25, 2003

**REASON FOR
CONTINUANCE**

These cases are being continued to allow the applicant additional time to work with the neighborhood.

STAFF CONTACT(S)

Bill Verschuren

Senior Planner

480-312-7734

E-mail: bverschuren@ScottsdaleAz.gov

REQUEST**Pueblo PoQuito Abandonment**

Request for an abandonment of a 10 feet wide public right-of-way located along the north side of Mountain View Road and a 18 feet wide General Land Office patent roadway located along the west side of 123rd Street.

11-AB-2002

CONTINUANCE DATE

February 26, 2003

**REASON FOR
CONTINUANCE**

This case has been continued in order to clarify the legal notification.

STAFF CONTACT(S)

Pete Deeley

Project Coordination Manager

480-312-2554

E-mail: pdeeley@ScottsdaleAZ.gov

APPROVED BY


Randy Grant
Chief Planning Officer

SCOTTSDALE PLANNING COMMISSION REPORT



MEETING DATE: February 11, 2003

ITEM NO. _____

GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT

Alltel Communications At Troon North

REQUEST

Request to approve a conditional use permit for a personal wireless service facility located at the northeast corner of Dynamite Blvd and N 114th St. with Single-Family Residential, Environmentally Sensitive District (R1-18, ESL) zoning.

28-UP-2002

Key Items for Consideration:

- Faux cactus will be placed in the rear portion of the scenic corridor to minimize disturbance.
- Equipment cabinet will be vaulted underground and outside of the scenic corridor.
- New landscaping will be planted to help blend the faux cactus into the existing environment.

Related Cases:

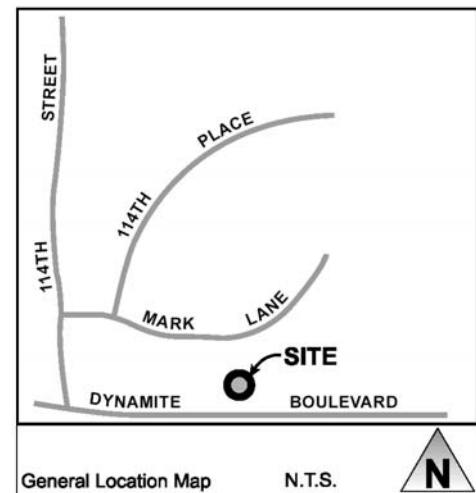
1-PP-95

OWNER

Desert Crown III Homeowners Association
480-820-3451

APPLICANT CONTACT

Michael Campbell
Campbell A & Z LLC
602-616-8396



LOCATION

E Dynamite Blvd/ N. 114th St. (Northeast Corner)

BACKGROUND

Zoning.

The site is zoned Single-Family Residential, Environmental Sensitive Lands (R1-18 ESL). This zoning district allows for personal wireless service facilities (PWSF) with the approval of Conditional Use Permits.

General Plan.

The General Plan Land Use Element designates the property as Suburban Neighborhoods. This category includes medium-to-small-lot, single-family neighborhoods or subdivisions.

**APPLICANT'S
PROPOSAL****Context.**

Single-family residential developments completely surround the site. R1-18 ESL zoning is to the north and west; R1-10 ESL to the south; and R1-43 ESL and R1-70 ESL to the east.

Goal/Purpose of Request.

The applicant is requesting approval for a conditional use permit to build a PWSF in the Desert Crown III subdivision. The PWSF will be placed in Tract A of the subdivision, located along Dynamite Boulevard. Tract A also serves as one of the subdivision's open space tracts and as part of the Dynamite Boulevard scenic corridor.

Under this proposal the PWSF will be concealed within a 25-foot-tall artificial saguaro cactus. The proposed faux cactus site is 600 feet east of 114th Street along the north side of Dynamite Boulevard. The faux cactus will be placed within a dense stand of large vegetation, approximately 50 feet back (north) from the existing sidewalk. The artificial saguaro skin is molded out of a sun-resistant fiberglass casting of an actual saguaro cactus to help blend it with the natural environment.

The proposed equipment cabinets will be placed in an underground vault, approximately 60 feet back (north) from the right-of-way line. The vault hatch will be covered by an artificial rock, approximately 3 feet tall by 3 feet wide by 6 feet long. The rock will match the color of the rocks in the area to help blend it with the natural environment. The coax cable, electric, and telephone line between the faux saguaro and equipment vault will be underground. The applicant proposes to plant a variety of new landscaping around the two facilities to enhance the natural environment.

The concealment of the PWSF within an artificial cactus is outside the zoning ordinance requirements for a minor PWSF, therefore, requiring a conditional use permit. Staff is currently preparing an amendment to the PWSF ordinance, to include review of alternative concealment structures as a minor facility. The conditional use permit approval for this personal wireless service facility (faux cactus) is valid for a maximum period of five (5) years.

Community Impact.

The proposed PWSF (faux cactus) has been designed to integrate with the natural environment of the open space/scenic corridor. There are two existing saguaro cacti located at the western portion of Tract A and one saguaro located just east of the proposed faux cactus on private property. The concealment of the PWSF within the artificial 25-foot saguaro cactus will blend in with the natural environment along the scenic corridor and not anticipated to create a significant impact on the community. A variety of new landscaping will be planted around the faux cactus and equipment to further blend it into the environment. The facility will provide wireless communication service to an area of the community with siting challenges due to varied terrain and few man-made vertical structures.

IMPACT ANALYSIS

Development information.

- *Existing Use:* Vacant (scenic corridor/Tract A)
- *Buildings/Description:* No buildings proposed, a faux cactus and a faux rock covering the underground equipment
- *Parcel Size:* Tract A, approximately +/- 1.1 acre
- *Proposed Cactus Height:* 25 ft. faux cactus

Open space, scenic corridors.

The PWSF (faux cactus) is located within Tract A of the Desert Crown III Subdivision. The tract is also the subdivisions open space and the 50-foot scenic corridor along Dynamite Blvd. The 50-foot scenic corridor starts at the right-of-way line, which is approximately 20 feet north of the existing sidewalk. The lots within the subdivision all back up to the scenic corridor, but a portion of Tract A extends 120 feet north to Mark Lane, between two single-family home lots. The applicant has placed the faux cactus and associated equipment in this area of the tract to keep the facility away from the residents. The faux cactus is within the 50-foot scenic corridor; approximately 50 feet back from the existing sidewalk. The rear portion of the scenic corridor was selected to help minimize the amount of disturbance and building in the scenic corridor.

Policy implications.

- Provide wireless service for all areas of the city.
- Minimize the visual, environmental, and neighborhood impacts associated with personal wireless service facilities.
- Locate the faux cactus in the rear portion of the 50-foot scenic corridor.

Use Permit Criteria.

Conditional use permits, which may be revocable, conditional, or valid for a specified time period, may be granted only when expressly permitted only after the Planning Commission has made a recommendation and the City Council has found as follows:

- A. That the granting of such conditional use permit will not be materially detrimental to the public health, safety or welfare. In reaching this conclusion, the Planning Commission and the City Council's consideration shall include, but not be limited to, the following factors:
 1. Damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.
 - *The placement of a faux cactus with a personal wireless service facility within it will not produce any noise, smoke, odor, dust, vibration, or illumination to the site or the surrounding areas.*
 2. Impact on surrounding areas resulting from an unusual volume or character of traffic.
 - *The applicant has stated that a service vehicle will visit the site once per month for maintenance. A gravel parking space has*

been provided to match the existing gravel next to the existing sidewalk. This parking space and vehicle using it will not impact the surrounding area with an unusual volume or character of traffic.

3. There are no other factors associated with this project that will be materially detrimental to the public.
 - *The project does not have any other factors that will be materially detrimental to the public.*
- B. The characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas.
 - *The proposed area consists of open space containing trees, shrubs, cacti, and other natural materials. The proposed faux cactus is compatible with the surrounding landscaping and does not significantly change the character of the area.*
- C. The additional conditions specified in Section 1.403, as applicable, have been satisfied.
 - *The conditional use permit approval is valid for a five (5) year period only and will be subject to re-approval at that time.*
 - *The shape of the personal wireless service facility (faux cactus) blends with other similar vertical objects and is not intrusive in its setting or obtrusive to views.*
 - *The personal wireless service facility (faux cactus) blends into its setting and is not intrusive on the landscaping.*

Community involvement.

Alltel, the applicant, met with the Desert Crown III Homeowners Association several times within the past year to discuss the details of the project. The applicant has also had contact with a couple of neighbors within the subdivision through phone calls and e-mails regarding RF emissions. An RF design engineer from Alltel responded to the neighbor's questions. At this time, there have been no comments from the public regarding this case.

**STAFF
RECOMMENDATION**

Recommended Approach:

Staff recommends approval, subject to the attached stipulations.

**RESPONSIBLE
DEPT(S)**

Planning and Development Services Department
Current Planning Services

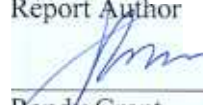
STAFF CONTACT(S)

Bill Verschuren
Senior Planner
480-312-7734
E-mail: bverschuren@ScottsdaleAZ.gov

APPROVED BY



Bill Verschuren
Senior Planner
Report Author



Randy Grant
Chief Planning Officer

ATTACHMENTS

1. Applicant's Narrative
2. Context Aerial
- 2A. Aerial Close-Up
3. Land Use Map
4. Zoning Map
5. Stipulations and Additional Information
6. Citizen Involvement
7. Elevation
8. Landscape Plan
9. Site Plan
10. Enlarged Site Plan

PROJECT NARRATIVE

**To: Design Review Staff
City of Scottsdale**

Michael J. Campbell

December 2, 2002

**Re: ALLTEL Communications Troon North
11477 E. Mark Lane
#115-PA-2002**

ALLTEL Communications is proposing to locate a wireless communications facility inside a 25' tall stealth saguaro cactus. The saguaro will be located in the common area Tract "A" of the Desert Crown III subdivision. The saguaro will be situated in a portion of the Tract that is a designated scenic corridor. The associated electronic equipment will be housed in an underground vault to the north of the stealth saguaro, outside of the scenic corridor.


The Project includes:

- Installation of new antennas inside the stealth saguaro cactus, the saguaro is made of an RF friendly material that will closely resemble a natural saguaro cactus. These antennas will not be visible to the public. The saguaro will blend in with the natural vegetation that is present throughout the common area Tract.
- The electronic equipment will be placed in an underground vault, to the north of the saguaro. The vault hatch will be covered by an artificial rock, approximately 3' tall by 3' wide by 6' long. The rock will blend with the color of the rocks in the area. The location of the equipment is also in Tract "A", yet outside of the scenic corridor.
- Installation of coaxial cable runs from the equipment to the saguaro will be underground, as will the electric and telephone service for the facility.

This site is designed to improve ALLTEL Communications' coverage into the surrounding neighborhoods, as well as along Dynamite Blvd. from 115th St. to the west of Alma School rd. This site will link to the ALLTEL site at Alma School and Jomax Roads.

Should you have any questions, or require additional information, please contact me at 602-616-8396, or at campbellaz1@earthlink.net

Thank you,



**Michael J. Campbell
Campbell A&Z, LLC,
on behalf of Alltel Communications**

**115-PA-2002
12/9/2002**



Alltel Communications Troon North

28-UP-2002

ATTACHMENT #2

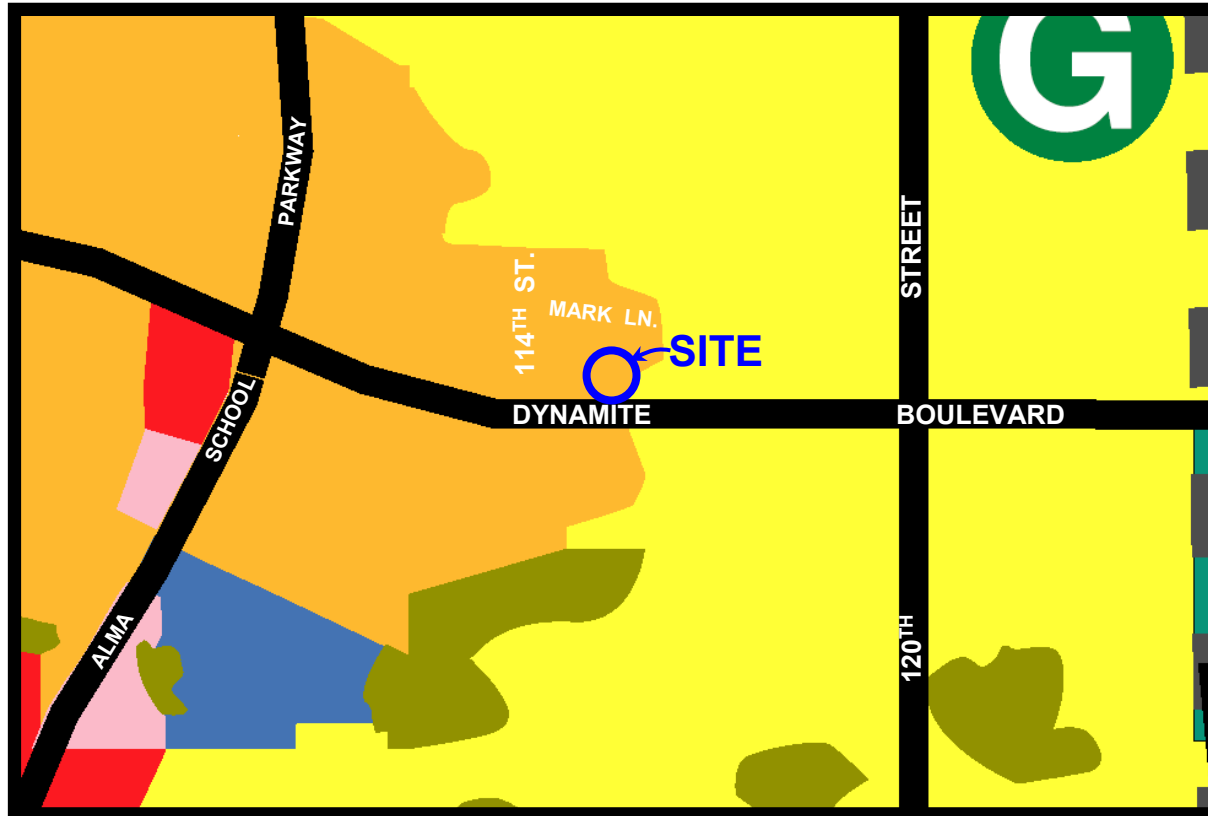





















Alltel Communications Troon North

28-UP-2002

ATTACHMENT #2A

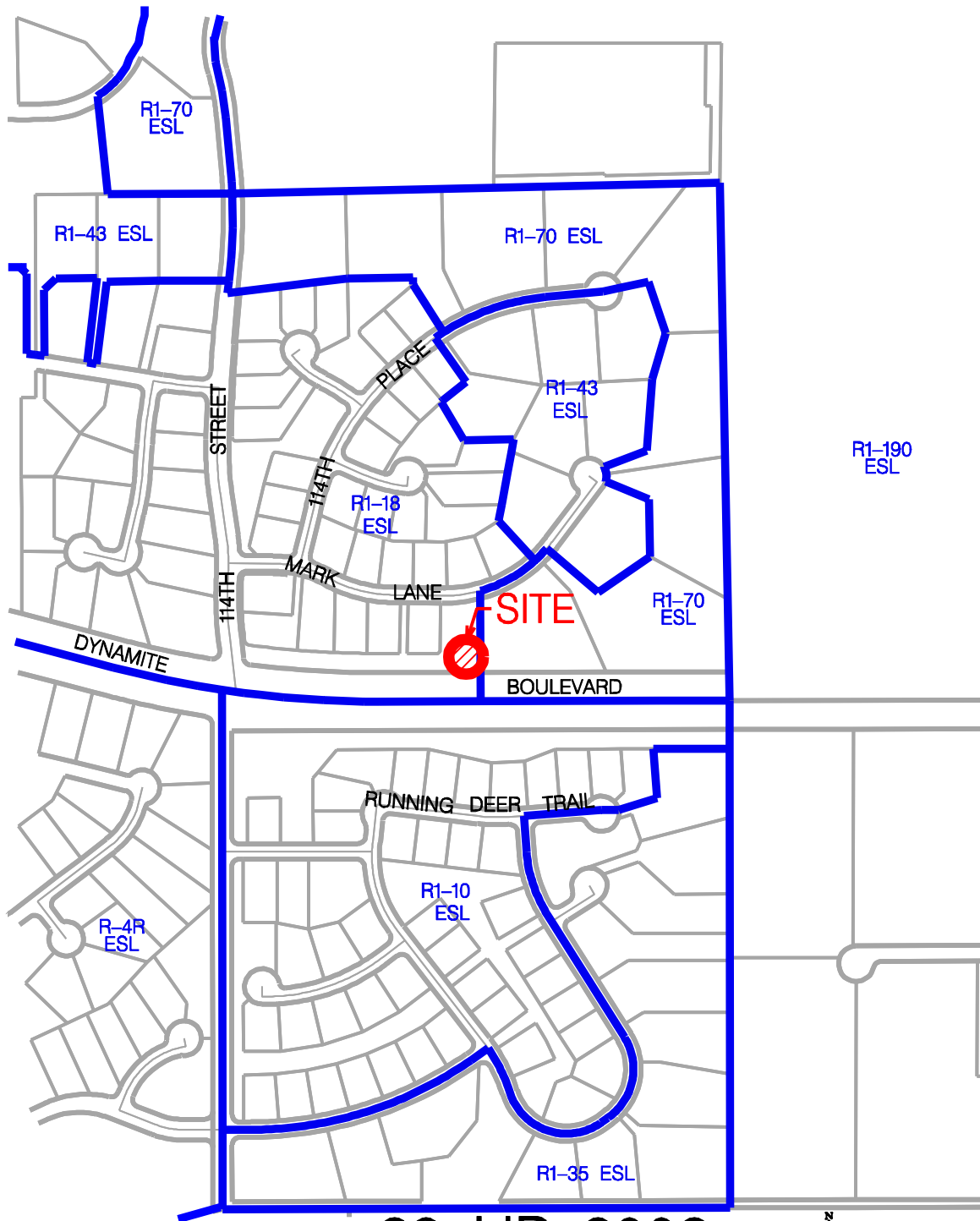
General Plan



- | | | | |
|---|---|---|--|
|  | Rural Neighborhoods |  | Commercial |
|  | Suburban Neighborhoods |  | Office |
|  | Urban Neighborhoods |  | Employment |
|  | Mixed-Use Neighborhoods |  | Natural Open Space |
|  | Resorts/Tourism |  | Developed Open Space (Parks) |
|  | Shea Corridor |  | Developed Open Space (Golf Courses) |
|  | Mayo Support District |  | Cultural/Institutional or Public Use |
|  | Regional Use District |  | State Trust Lands under State Land Commissioner's Order #078-2001/2002 |
|  | McDowell Sonoran Preserve (as of 3/2002) | | |
|  | Recommended Study Boundary of the McDowell Sonoran Preserve | | |
|  | City Boundary | | |



28-UP-2002
ATTACHMENT #3



28-UP-2002
ATTACHMENT #4



STIPULATIONS FOR CASE 28-UP-2002

PLANNING/ DEVELOPMENT

1. CONFORMANCE TO DEVELOPMENT SUBMITTAL. Development shall conform with the site plan submitted by FM Group Inc. and dated 8/15/02. These stipulations take precedence over the above-referenced site plan. Any proposed significant change, as determined by the Zoning Administrator, shall be subject to subsequent public hearings before the Planning Commission and City Council.
2. DEVELOPMENT REVIEW BOARD SUBMITTAL. With the Development Review Board submittal the developer shall provide a detailed landscape plan that shall include details on the re-vegetation in the Scenic Corridor and Tract "A" to the satisfaction of City Staff.

ENVIRONMENTAL DESIGN

1. NATURAL AREA OPEN SPACE AND SCENIC CORRIDOR REVEGETATION. Before final site inspection, the developer shall revegetate NAOS and Scenic Corridor in conformance with the Scottsdale Zoning Ordinance, to the satisfaction of city staff.

CIRCULATION

1. The developer shall provide a gravel parking space on Dynamite Boulevard for one maintenance vehicle. This is requested to protect desert shrubs that may be damaged by the maintenance vehicle.

ADDITIONAL INFORMATION

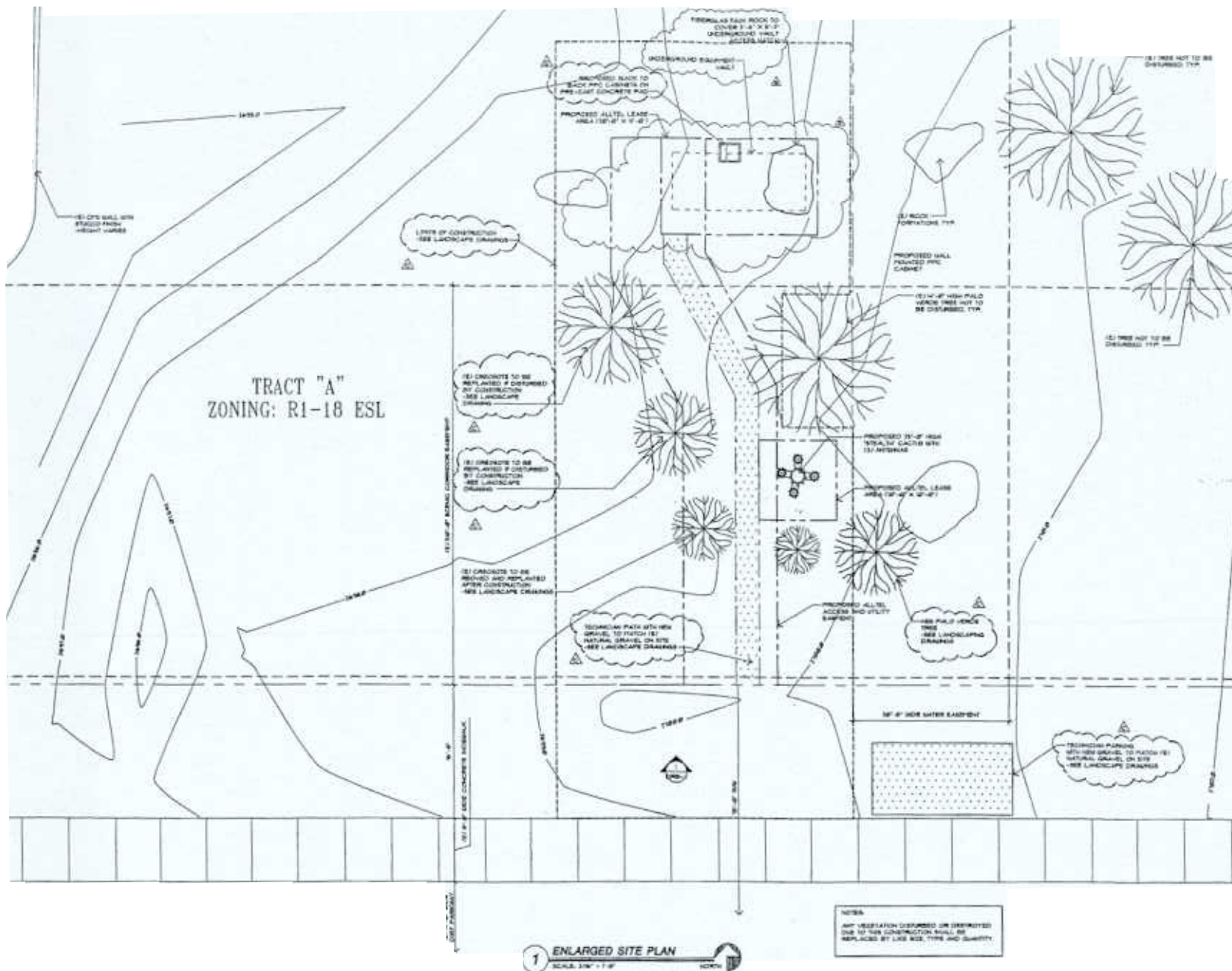
PLANNING/DEVELOPMENT

1. DEVELOPMENT REVIEW BOARD. The City Council directs the Development Review Board's attention to:
 - a. scenic corridors and buffered parkways,
 - b. major stormwater management systems,
 - c. landscape plan
 - d. the faux cactus and faux rock
 - e. Master Environmental Design Concept Plans.
2. REVEGETATION OF SCENIC CORRIDORS. The Development Review Board may approve revegetation of the Scenic Corridors.
3. NATIVE PLANT PRESERVATION. The owner shall secure a native plant permit as defined in the Scottsdale Revised Code for each parcel. City staff will work with the owner to designate the extent of the survey required within large areas of proposed undisturbed open space. Where excess plant material is anticipated, those plants shall be offered to the public at no cost to the owner in accordance with state law and permit procedure or may be offered for sale.

28-UP-2002
ALLTEL COMMUNICATIONS AT TROON
NORTH

Attachment #6. Citizen Involvement

This attachment is on file at the City of
Scottsdale Current Planning office, 7447 E
Indian School Road, Suite 105.



FM GROUP INC.
2844 NORTH 44th ST. SUITE 130
PHOENIX, ARIZONA 85018
TEL: (602) 271-1877
FAX: (602) 271-6288




LLTEL
Southwest Region

PROJECT DESCRIPTION:
NEW ANTENNAS INSIDE
'STEALTH' CACTUS AND NEW
UNDERGROUND EQUIPMENT
VAULT

SITE NAME:
TROON NORTH
NEC 114TH STREET & DYNAMITE
SCOTTSDALE, ARIZONA 85262
MARICOPA COUNTY

SITE NUMBER:
724590352

PROJECT NO:	00418	
FILE NAME:		
DATE:	3/20/02	
DRAWN BY:	JAB	
REVIEWED BY:	HP	
REV.	DESCRIPTION	DATE

SHEET TITLE:
ENLARGED SITE
PLAN

SHEET NO.
DRR-3
ATTACHMENT #10

28-UP-2002

SCOTTSDALE PLANNING COMMISSION REPORT



MEETING DATE: February 11, 2003 ITEM NO. _____ GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT REQUEST

Edufit

Request to approve a conditional use permit for a health studio within one suite of the existing shopping center located at the northeast corner of Scottsdale Road and Pinnacle Peak Road (23425 N Scottsdale Road) with Central Business District (C-2) zoning.

29-UP-2002

Key Items for Consideration:

- On-site parking is sufficient for the proposed use.
- Use will not generate an unusual volume of traffic

Related Policies, References:

139-DR-1987

OWNER

Lamb 4ps LLC
480-424-5856

APPLICANT CONTACT

Matthew Levine
Titus, Brueckner & Berry, P C
480-483-9600

LOCATION

23425 N Scottsdale Rd

BACKGROUND

Zoning.

The site is zoned Central Business with the Environmental Sensitive Lands overlay (C-2 ESL). The C-2 zoning district allows a health studio with a conditional use permit.

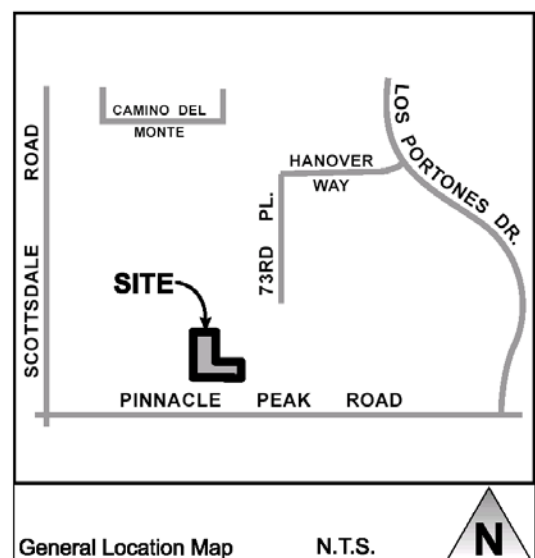
General Plan.

The General Plan Land Use Element designates the property as Commercial. This category includes areas designated for commercial centers providing goods and services frequently needed by the surrounding residential population, and retail businesses.

Context.

This site is located at the northeast corner of Pinnacle Peak and Scottsdale Roads within the Safeway shopping center. The surrounding property includes the following:

North = Single family residential subdivision (zoned R1-5 ESL and R-4 ESL)



East = Single family residential subdivision (zoned R1-5 ESL) and vacant land (zoned C-O ESL).

South = Rawhide (zoned Western Theme Park, W-P).

West = City of Phoenix, vacant property

**APPLICANT'S
PROPOSAL**

Goal/Purpose of Request.

To allow for a health studio providing individualized fitness consultation and training sessions.

Key Issues.

- Parking provided on-site is sufficient for the proposed health studio. The applicant will obtain two parking credits by providing shower facilities.
- Trip generation analysis indicates that the commercial shopping center site can accommodate the anticipated traffic generated from this use.

Community Impact.

The project will provide fitness training services for the surrounding neighborhood. No adverse impacts are anticipated.

IMPACT ANALYSIS

Traffic.

The applicant provided specific operational information from which city transportation staff estimated daily trips generated for the proposed use. For example, the Edufit use includes a maximum of one or two employees and five clients at any one time. Also, training sessions usually last one hour. Based on this information, the vehicle trips generated will typically be 10 per hour for the five clients, i.e. one trip in and one trip out, with the one or two employee's trips more widely spaced. This amount of traffic in the existing shopping center will not create an on-site or public street traffic problem.

Parking.

The Edufit use requires 14 parking spaces. With this use, a total of 561 spaces are required for the overall shopping center, but only 559 spaces are provided. The applicant will receive two parking credits, however, by providing shower stalls with the project. These parking credits will satisfy the additional two parking spaces required for the site.

Development information.

- *Existing Use:* Commercial retail and service
- *Buildings/Description:* Shopping Center
- *Parcel Size:* 14.3
- *Overall Building Floor Area:* 114,400 square feet
- *Health Studio*
- Gross Floor Area:* 2,165 square feet

Use Permit Criteria.

Conditional use permits, which may be revocable, conditional, or valid for a specified time period, may be granted only when expressly permitted after the

Planning Commission has made a recommendation and the City Council has found as follows:

- A. That the granting of such conditional use permit will not be materially detrimental to the public health, safety or welfare. In reaching this conclusion, the Planning Commission and the City Council's consideration shall include, but not be limited to, the following factors:
 - 1. Damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.
 - *The proposed use is not anticipated to create any damage or nuisance.*
 - 2. Impact on surrounding areas resulting from an unusual volume or character of traffic.
 - *The use is not anticipated to generate an unusual volume or character of traffic.*
 - 3. There are no other factors associated with this project that will be materially detrimental to the public.
 - *No other factors were identified that could be materially detrimental to the public.*
- B. The characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas.
 - *The proposed use appears reasonably compatible with the retail, office and services uses within the area.*
- C. The additional conditions specified in Section 1.403, as applicable, have been satisfied.

No additional conditions are specified in the zoning code.

Community involvement.

The applicant contacted adjacent tenants by telephone regarding the proposed use. At this time, staff has received no input from the public regarding this request.

**OPTIONS AND STAFF
RECOMMENDATION**

Recommended Approach:

Staff recommends approval, subject to the attached stipulations.

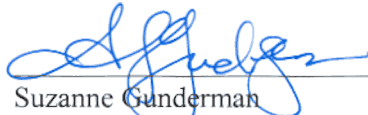
**RESPONSIBLE
DEPT(S)**

Planning and Development Services Department
Current Planning Services

STAFF CONTACT(S)

Suzanne Gunderman
Senior Planner
480-312-7087
E-mail: sgunderman@ScottsdaleAZ.gov

APPROVED BY



Suzanne Gunderman
Senior Planner
Report Author



Randy Grant
Chief Planning Officer

ATTACHMENTS

1. Applicant's Narrative
2. Context Aerial
- 2A. Aerial Close-Up
3. Land Use Map
4. Zoning Map
5. Stipulations
6. Citizen Involvement
7. Site Plan
8. Floor Plan

PROJECT NARRATIVE

I. THE APPLICANT

Since mid-1998, Alan Katz has helped hundreds of clients improve and transform their bodies utilizing personal attention, focused counseling and training techniques at his two (2) valley Edufit facilities. In 2001, the City Council of Scottsdale unanimously approved a use permit for Edufit's current Scottsdale location at the Scottsdale and Shea East Center (see 39-UP-2000). The instant request for a use permit is for Edufit's proposed second Scottsdale location at 23425 N. Scottsdale Road, Suite A-7. The new location consists of approximately 2,165 square feet.

As with its other locations, Edufit limits the amount of clients (for this location, no more than 5 would be allowed on the exercise floor at one time). Prior to beginning a program, Alan personally meets with each client and compiles a highly individualized nutrition, weight-loss, cardiovascular and strength-training program. Beside Alan, there will be two other employees (nutritional counselor/trainer) at the north Scottsdale location. Each trainer has received certification from a nationally recognized organization.

Alan prides Edufit on educating clients via body fat analyses, supplement counseling, weight-loss and dietary programs, post-physical therapy fitness and recovery, and overall cardiovascular and muscular fitness in an individualized basis. The clientele is predominately female, with weight loss and overall better physical fitness as their primary goals. Clients purchase individual sessions on a fee-for-service basis. There are no memberships or long-term contracts. The clients must schedule appointments for each particular session (broken into 45-minute increments). Edufit limits the maximum clients per session on the workout floor to 5, so that each receives adequate attention from the counselor/trainer.

II. THE PROPERTY

Edufit is located in Suite A-7 of the The Pinnacle of Scottsdale Center (the "Center"). The total facility, inclusive of reception area, offices and restroom/showers, is approximately 2,165 square feet and is located in the southeast quadrant of the Center. Edufit is adjacent to Kashman's and Re/Max Excalibur. Currently, the Center is zoned C-2 (Central Business District) and houses Safeway, Arizona Bread Company, Starbucks, Eleanna's, Kashman's Pinnacle Pizza, Giant gasoline, Wells Fargo bank, Jalapenos, and numerous other shops, professional offices (dentist, real estate, etc.) and restaurants.

The Center has ample parking. Edufit does not pose any parking issues due to its restricted number of clients and limited hours of operation. Edufit is open from 5:30 a.m. until 7:30 p.m. Monday through Thursday, and 5:30 a.m. through 6:00 p.m. on Friday. Edufit closes between 12:30 p.m. and 2:30 p.m. on Monday through Friday for lunch. On Saturday, the facility is only open from 8:30 a.m. to 12:00 p.m. Edufit does not offer or provide services on Sunday. Traditionally, Edufit's clientele prefers early morning sessions, well before several of the other businesses within the Center open for customers.

III. THE REQUEST

Mr. Katz is seeking the issuance of a conditional use permit to operate in the C-2 district as a health studio, similar to the request previously granted by this Council. Edufit desires to continue to serve its clientele in the same manner and with the same high quality as continuously provided since 1998. Issuance of the requested permit is consistent with the Scottsdale Zoning Ordinance (the "Ordinance") and prevailing development patterns within the Center.

The Granting of the Conditional Use Permit will not be Materially Detrimental to the Public Health, Safety or Welfare.

A. Edufit does not Cause any Damage or Nuisance

Since Edufit's grand opening in 1998, Alan has operated his Edufit locations free of any nuisance or other complaint from any residential neighbors, other tenants, the Police or otherwise. Besides light music and television that accompanies the training sessions (which cannot be heard outside of the facility), there is no other noise generated by Edufit. Similarly, due to the nature of Edufit's operation, the facility generates no damage-causing smoke, odor, dust, vibration or illumination.

B. Edufit does not Create an Unusual Volume or Character of Traffic

Edufit has never received a complaint from any customer, tenant, landlord, property manager, City or otherwise at any of its locations regarding an undue burden on parking caused by Edufit's employees or customers. Rather, Edufit and its co-tenants at each of its locations have enjoyed a harmonious co-existence benefiting from the mixed uses within the centers in which it operates (as it will at the current Center). The parking at the Center is ample and seldom, if ever, filled to capacity.

Section 9.103 of the Ordinance declares a parking requirement of 15 spaces for Edufit based on 2,165 gross square feet. The owner of the Center has verified that said number of parking spaces is available for Edufit. Furthermore, as previously stated, a maximum of 5 clients are

allowed on the exercise floor during any session. Indeed, other clients may be warming-up or stretching immediately prior or after their individual sessions. Rarely, however, is Edufit filled to capacity. To the contrary, there are typically less than the minimum amount of clients on the training floor during any given session. This is mainly due to the "by appointment only" nature of the facility. Last, as stated above, Edufit's "busiest" times are typically before several of the other businesses within the Center open for customers and Edufit is not open for business during the heaviest traffic times for the Center.

*Edufit is Reasonably Compatible with Other Types
of Uses in the Surrounding Area*

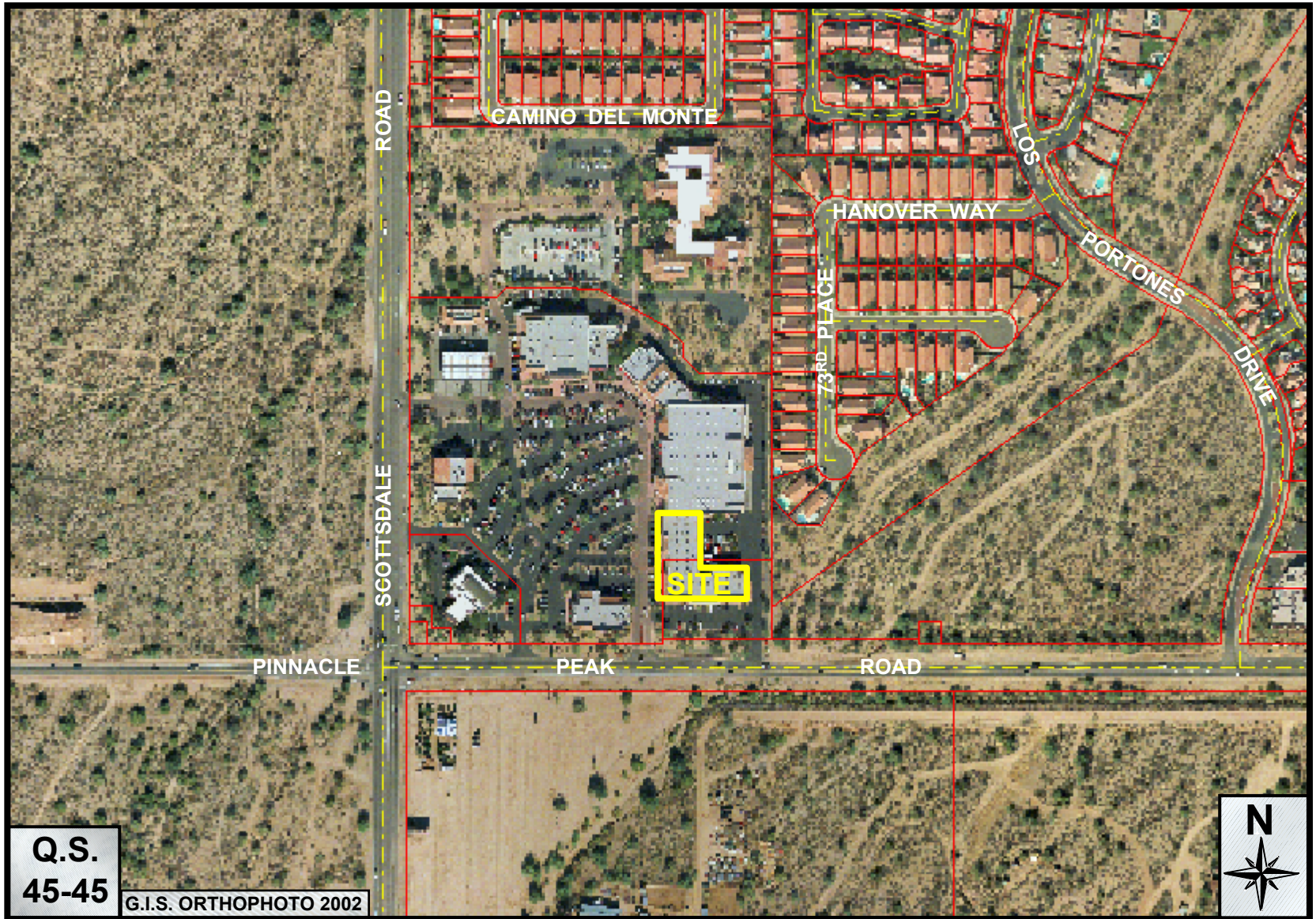
Again, the Center is extremely similar to the other centers that house Edufit's two other valley locations. Edufit and the other tenants have enjoyed a harmonious co-existence benefiting from the mixed uses within the Center. As with the other centers, the instant Center is full of restaurants, many of which offer healthier dining options (i.e. Jalapenos, Arizona Bread Company, Kashman's, Toyama). Several of Edufit's clients dine at these type of restaurants because they are compatible with the healthier lifestyle that the clients desire. Furthermore, undoubtedly many of Edufit's clients will also frequent the bank, supermarket, video and other retail stores within the Center.

There are no Additional Conditions for Edufit to Satisfy

Edufit is not within any of the conditional uses stated in Section 1.403 of the Ordinance. Thus, Alan is not required to satisfy any additional or use specific criteria prior to seeking or obtaining issuance of the requested use permit.

IV. CONCLUSION

Edufit has maintained its upstanding operation at its valley locations since 1998, free of complaint from co-tenants, landlords, any municipality, property managers, customers and surrounding residential neighbors. In 2001, this Council approved Edufit's similar request, for a larger health studio at a similar shopping center. Edufit has established a distinct clientele that pays considerable sums for the focused, individualized total-health weight-loss, dietary and fitness programs designed and offered by Mr. Katz and his counselor/trainers. Since its inception, Edufit has imposed strict limits on the number of clients using its facilities and upon its hours of operation. Edufit maintains a harmonious relationship with its co-tenants. Issuance of the requested conditional use permit will allow Edufit to offer its exceptional operation to citizens in the northern portion of our City without causing any burden or hardship on the City, its citizens, or any guest or invitee of the Center.



Edufit

29-UP-2002

ATTACHMENT #2



Edufit

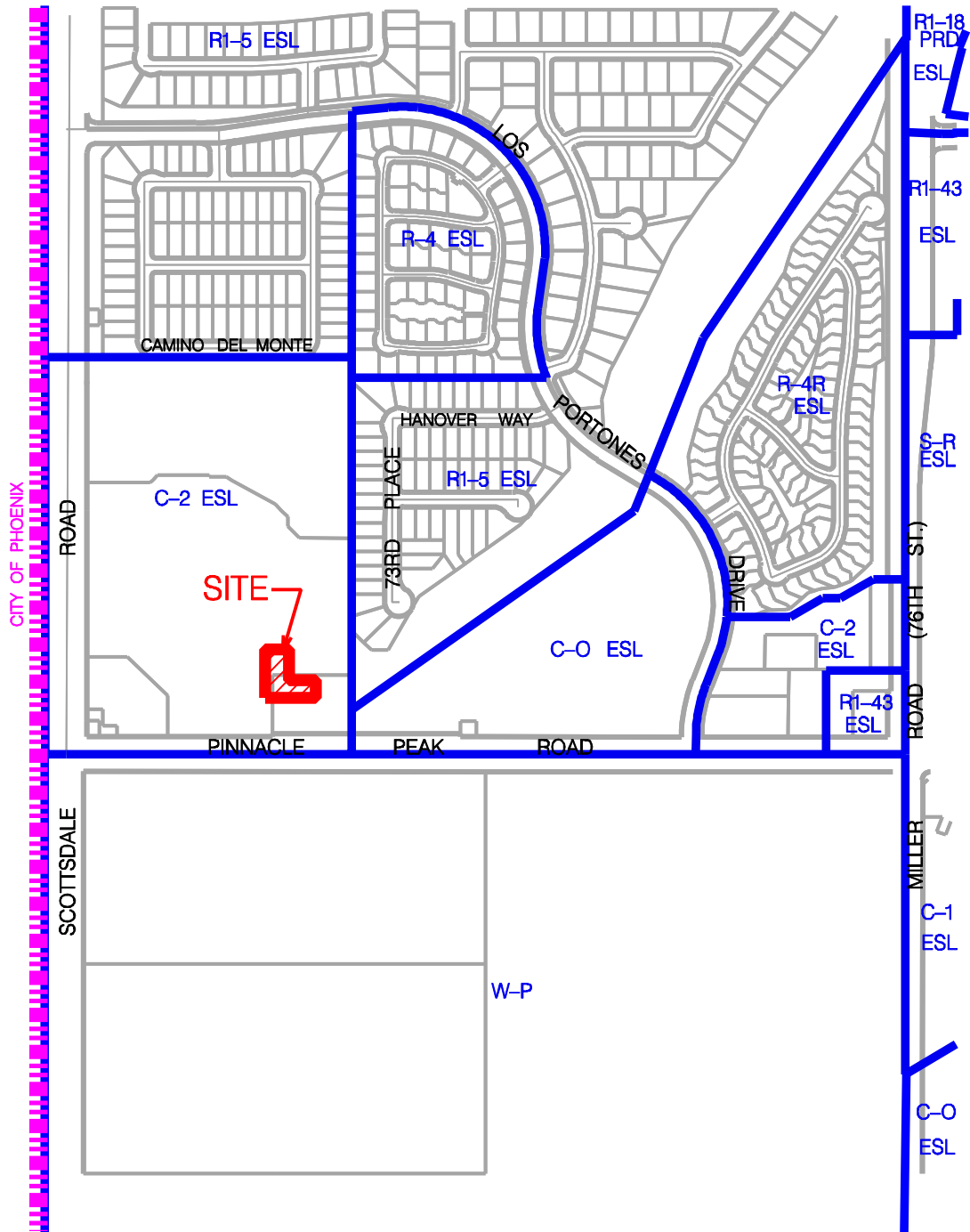
29-UP-2002

ATTACHMENT #2A

The map shows the Peak area with a proposed site location. The site is marked with a blue line and arrow pointing to a small blue square labeled 'SITE'. The site is located at the intersection of Pinnacle and Scottsdale. The map is divided into four quadrants by a horizontal road (Pinnacle) and a vertical road (Scottsdale). The top-left quadrant is orange with a red area labeled 'PINNACLE'. The top-right quadrant is orange with a red area labeled 'PEAK'. The bottom-left quadrant is blue with a red area labeled 'SCOTTSDALE'. The bottom-right quadrant is orange with a red area labeled 'HAYDEN'. Other labels include 'HANOVER WAY', '73RD PLACE', 'ROAD', 'STREET', 'MILLER ROAD', and 'HAYDEN ROAD'.



29-UP-2002
ATTACHMENT #3



29-UP-2002
ATTACHMENT #4



STIPULATIONS FOR CASE 29-UP-2002

PLANNING/ DEVELOPMENT

1. CONFORMANCE TO DEVELOPMENT SUBMITTAL. Development shall conform to the floor plan, submitted by The Construction Zone, Ltd and dated December 20, 2002. These stipulations take precedence over the above-referenced floor plan. Any proposed significant change, as determined by the Zoning Administrator, shall be subject to subsequent public hearings before the Planning Commission and City Council.

CASE NUMBER 611-PA-2002LOCATION OF APPLICATION N.E. corner Pinnacle Peak + Scottsdale

COMMUNITY INPUT CERTIFICATION

It is valued in the city of Scottsdale that all applicants for rezoning, use permit, and/or variances will inform, and will invite input from, neighboring residents and other parties that may be impacted by the proposed use. The applicant shall submit this completed certification with the application as verification that such contact has been made. Community input was solicited as documented below:

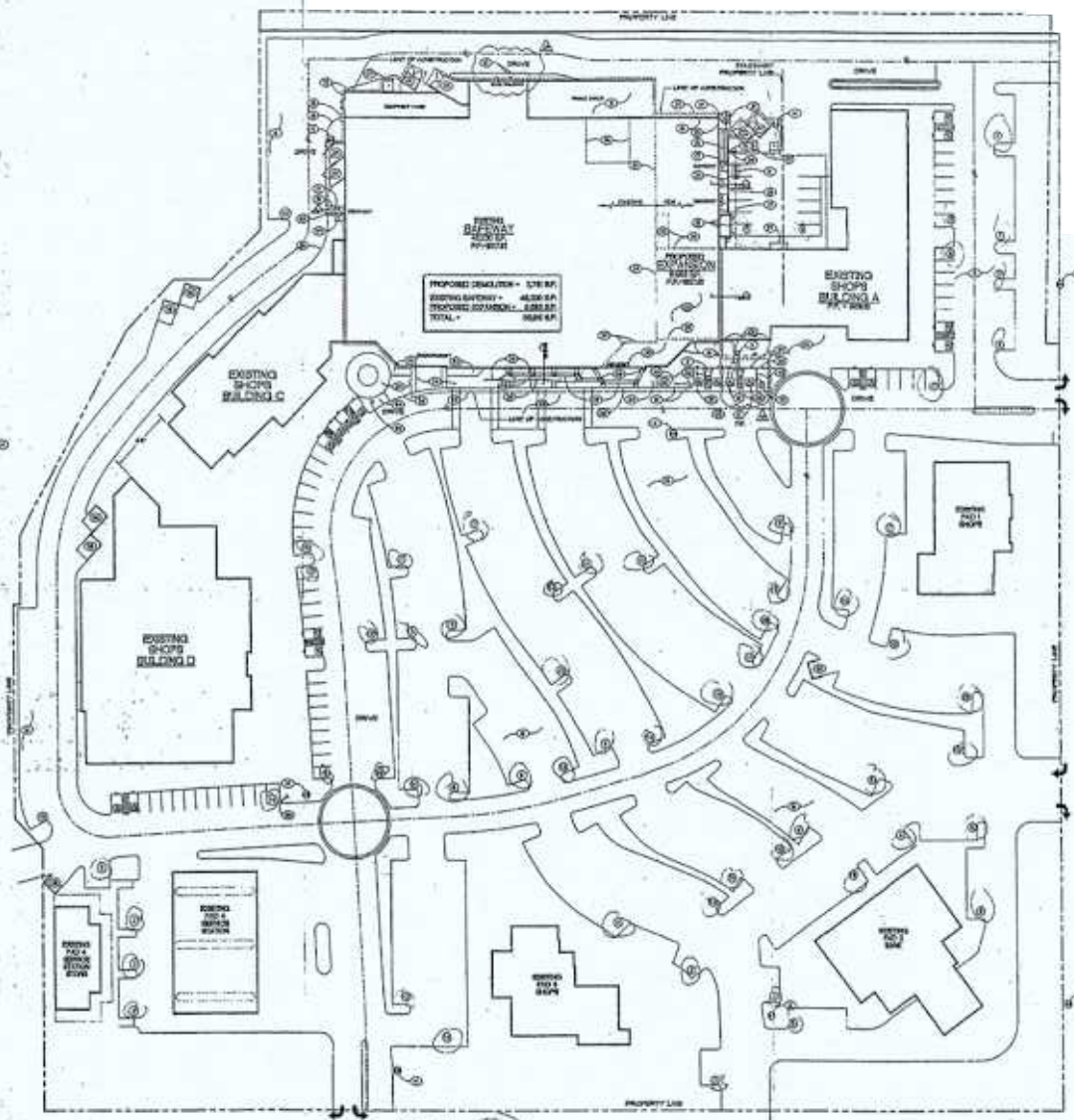
Date	Name (person, organization, etc.) and Address	Contact	Format	
		Meeting	Phone	Letter
12/4/02	FOYAMA RESTAURANT MUMORU KUGAGACHI 23415 N SCOTTSDALE RD. SCOTTSDALE, AZ 85255	X	480-513-1221	
12/4/02	KASHMAN'S Steve KASHMAN 23425 N. SCOTTSDALE RD. SCOTTSDALE, AZ 85255	X	480-585-6221	
12/4/02	BY WORD OF MOUTH CYNTHIA KIRGAN 23425 N. SCOTTSDALE RD. SCOTTSDALE, AZ 85255	X	480-419-1979	
12/4/02	MARSHAL CLAYTON PINNACLE PEAK DENISTRY 23425 N. SCOTTSDALE RD. SCOTTSDALE, AZ 85255	X	480-585-3065	
12/4/02	STOLICMAN'S 23587 N. SCOTTSDALE RD. SCOTTSDALE, AZ 85255	X	480-585-6142	


Signature of owner/applicant

12/4/02
Date

611-PA-2002
12/09/02

29-UP-2002
ATTACHMENT #8 12/11/2002



PROJECT DATA

PROJECT NAME: 611-PA-02
 PROJECT ADDRESS: 11111 N. Pinnacle Peak Rd., Scottsdale, AZ 85255
 PROJECT OWNER: AFEWAY STORES, INC.
 PROJECT TYPE: RETAIL
 PROJECT SIZE: 111,111 SQ. FT.
 PROJECT DATE: 12/06/02
 PROJECT STATUS: APPROVED

4 SITE GENERAL NOTES

1. ALL EXISTING UTILITIES AND STRUCTURES SHALL BE MAINTAINED AND PROTECTED.
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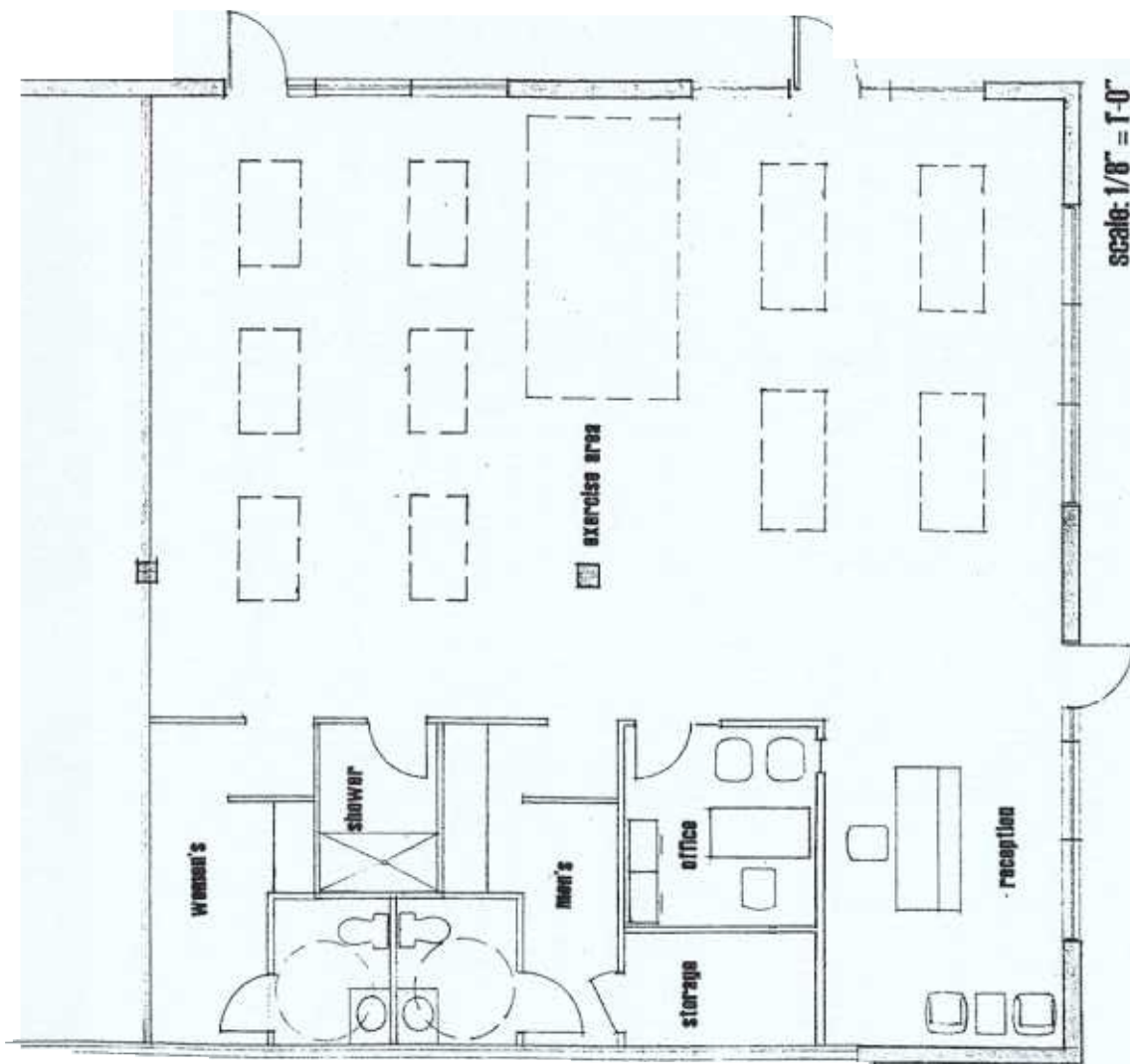
SAFARIWAY

AFEWAY

611-PA-02
 12/06/02
 SITE

29-UP-2002
 ATTACHMENT #7

29-UP-2002
 1/13/2003



EDUFIT #3

pinnacle of scottsdale

23425 n. scottsdale road

suite A-7

scottsdale, arizona 85255

exercise	1,392
toilet rooms	373
shower	50
reception	195
office	100
storage	55
total sf	2,165

SCOTTSDALE PLANNING COMMISSION REPORT



MEETING DATE: February 11, 2003

ITEM No. _____

GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT

Whisper Rock

REQUEST

Request to approve:

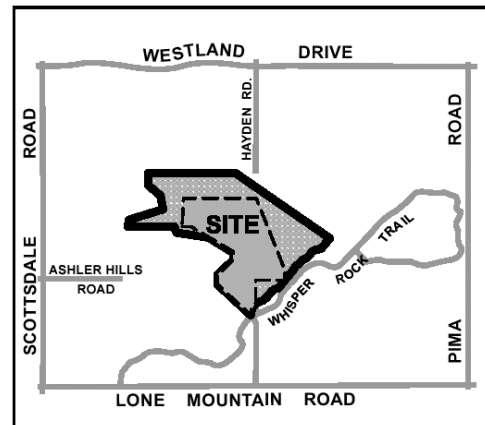
1. To rezone from Resort/Townhouse Residential, Environmentally Sensitive Lands (R-4R ESL), Single Family Residential, Environmentally Sensitive Lands (R1-43 ESL), Single Family Residential, Environmentally Sensitive Lands (R1-130 ESL) to Resort/Townhouse Residential, Environmentally Sensitive Lands, Planned Community District (R-4R, ESL, PCD), Single Family Residential, Environmentally Sensitive Lands, Planned Community District (R1-43, ESL, PCD), Single Family Residential, Environmentally Sensitive Lands, Planned Community District (R1-130, ESL, PCD) and
2. To revise the approved Amended Development Standards for Resort/Townhouse Residential, Environmentally Sensitive Lands (R-4R ESL) and
3. To revise the approved Development Agreement on a 10+/- acre parcel located near Hayden Road and Ashler Hills Road (extended)
4. A revision to an approved conditional use permit for a golf course on a 330 +/- acre parcel located near Hayden Road and Ashler Hills Road

29-ZN-2000#2 & 4-UP-1999#3

Key Items for Consideration:

Rezoning

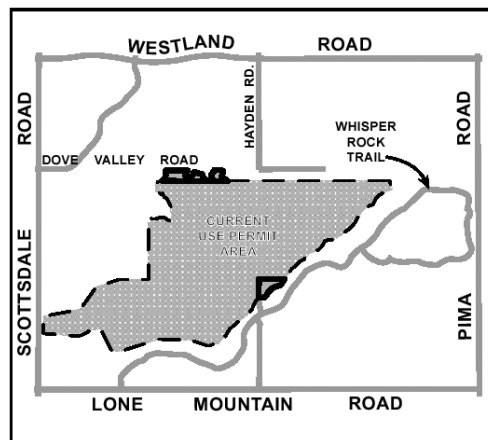
- Expands the existing 70-acre golf cottage planning area to 225 acres within which is proposed a total 10-acres and 50 units maximum of R-4R development.
- Places the PCD zoning on the site, which will allow greater flexibility in the location of the individual golf cottage units which will be determined at the time of final plan review.
- This PCD rezoning proposes only residential types of uses and does not propose



Amended Development Standards and Development Agreement

General Location Map

N.T.S.



Conditional Use Permit

General Location Map

N.T.S.



commercial, industrial or
public/institutional uses.

Amended Development Standards

- Existing amended development standards give some flexibility in placement of golf cottages throughout the interior of the golf course boundaries and specifies development density
- Amendment allows more flexibility in unit placement
- Amendment cleans up contradictory density specific stipulations and density development standard requirements from the previous case
- Amendment does not change the total number of units, density allowed, or total land area designated R4-R

Development Agreement

- Purpose of the agreement is to clearly limit density
- Proposal modifies the location for the R4-R product and maintains the density limitations
- Planning Commission does not vote on a development agreement; the City Council will need to take action on the Development Agreement

Use Permit

- Southwest half of golf course is already built
- Northeast half of golf course is approved for development
- This proposal expands golf course to the north and expands golf amenities in the south central part of Whisper Rock.
- Results in more open space / recreational land area

Other

- No public comments received
- No increased traffic impacts

Related Policies, References:

- 29-ZN-2000, approval of zoning for the development of the Whisper Rock master planned community.
- 4-UP-1999#2, approval of a golf course amendment to incorporate golf cottages onto the golf course portion of the master planned community.
- 4-UP-1999, approval of golf course for master planned community.
- Zoning Ordinance, 2001 General Plan

OWNER

C.T.A. J. Investments, LLC

APPLICANT CONTACT

Roger Tornow
Tornow Design Associates
480-607-5090

LOCATION

Northeast Corner Lone Mountain & Scottsdale Road

BACKGROUND

Zoning.

The overall Whisper Rock master planned community consists of 960 acres planned for single-family residential, resort, and golf uses. The zoning for this site allows master planned communities with golf courses and resort amenities including the golf cottages.

**APPLICANT'S
PROPOSAL**

General Plan.

This request does not propose to change the General Plan. The General Plan amendment granted to this property with its original zoning designates the property for Resorts/Tourism that includes single family residential, resort cottages, and golf course uses.

Context.

The northern boundary is adjacent to mountainside slopes that are not developed and a single-family residential subdivision. Adjacent to the southern boundary is a wide wash, undeveloped residential land, and the Whisper Rock golf course community. The golf cottages are to be located within the Whisper Rock golf course portion of the community that has not yet been fully developed.

Goal/Purpose of Request.

The developer desires development of the golf cottages with a more interesting building placement within the centralized golf course area and to expand the golf course land area. In order to implement these changes 4 requests are needed.

Conditional Use Permit Amendment

The conditional use permit request is to expand the golf course boundaries for the purpose of golf clubhouse amenities that will be developed in a campus style setting. In addition, the use permit amendment will provide for the expansion of the golf course north into higher elevations of the overall Whisper Rock development.

The original use permit approved a 27-hole golf course and ancillary facilities. Then the golf course was approved with an additional 9 holes (total of 36-hole golf course). The proposed golf course expansion will allow the extension of golf course development in the hills area of the site and provide additional land area for the golf course campus amenities, specifically for the fitness room to be housed in a building separated from the golf course clubhouse building.

This proposal will enhance the availability of open space and preservation of natural area open space by the golf course expansion. Only a limited area of the land will actually be developed for golf uses and the remainder of the land will be open space or preserved as natural area open space. The vista corridors will be preserved as in other areas of this master planned community by keeping the natural features with very minimum disturbance.

Rezoning

This rezoning adds the PCD designation to this land area and expands the land area available for the placement of the golf cottages. This results in more flexibility in individual golf cottage site locations. With the PCD zoning, the individual locations of the R-4R zoning can be formally established at the time of final plans permit issuance. This is in the same manner and is consistent with the Crossroads zoning case.

The PCD zoning does not add uses to those already approved for this area. No commercial, industrial, institutional, recreational or other public or quasi-public uses are proposed in this application. The PCD district requires development in accordance with the Whisper Rock development plan that consists of this

project application along with all applicable previously approved zoning and development review applications.

The development program (Application Narrative for Revisions to the Whisper Rock) dated January 3, 2003 includes a Golf Cottage/PCD Planning Area Land Use Budget Summary Table. This table further refines the previous Land Use Budget Summary table associated with zoning case 29-ZN-2000. The budget table changes shown below show an increase in total acreage of planned areas within the Whisper Rock Master Planned Development and a corresponding increase in the planned number of units for these planned areas. The new acreage planned for includes the northern most land area, the mountain areas, and the newly incorporated land east of Hayden Road at the primary entrance to the Whisper Rock development.

29-ZN-2000 Land Use Budget Summary Table

Parcel	Proposed Use	Zoning	Acres	Units
1	Single Family	R1-43	42	33
2	Golf Course	R1-43 and R1-130	85	None with Golf Course, 45 if Golf Course not built
3A	Golf Cottages	R-4R	5	25
3B	Golf Cottages	R-4R	5	25
Total			137	83

29-ZN-2000#2 Land Use Budget Summary Table

Parcel*	Proposed Use**	Zoning	Acres	Units
Golf Cottages		R-4R	10	50
Golf Course #2		R1-43	27	22 (if no golf is built)
		R1-130	126	39 (if no golf is built)
Custom Homes		R1-43	42	35
Total			205	85 (with golf course)
			205	146 (if no golf is built)

*The parcels are not numbered in this new Table.

** The proposed use is not designated in this new Table.

Development Agreement

The existing development agreement limits the golf cottages to non-rental units for short-term stays by the general public; that the golf cottages may only be sold to an individual or to the Golf Club; and that the golf cottages may be rented, leased, or otherwise available for short-term stays only to members of the Golf Club or guests of such members and with availability occurring only through the golf club. In addition, the current Development Agreement reiterates the total acres of R-4R zoning at a maximum of 10 acres located in 2 separate parcels.

The amendment to the Development Agreement replaces the language that limits the R-4R zoning to 2 parcels, and allows the R-4R zoning to be located on an aggregate 10-acres of land. The new language also clarifies that the 10-

acres does not need to be contiguous.

Amended Development Standards

The following amended development standards are proposed which will result in maximum flexibility in individual cottage site design:

Development Standard	Ordinance Requirement	2000 Approved Amendment	2002 Proposed Amendment
Lot area	7.5 acres	3 acres	5,000 square feet
Lot Dimensions	300 feet	100 feet	50 feet
Density	<ol style="list-style-type: none"> 1. Land area per guest room = 4,100 s.f. 2. Land area per rent, lease or sale dwelling unit = 5,770 s.f. 3. Buildings may cover 25% of land 4. City Council may regulate density by site plan approval 	No Change	50 units per 10 acres of land (comparing to the ordinance requirement, total project R-4R land area per unit = 8,712 s.f.)

Analysis of Lot area amended development standard: The Whisper Rock master planned community is limited to 10-acres total area of R-4R zoning with a maximum of 50 units. The lot area as in the 2000 Amended Standards would result in a development pattern with units clustered into 3-acre or greater sized sites. The proposed minimum 5,000 square feet lot area would allow the units to be placed individually or in clustered groupings throughout the area of Whisper Rock shown on Attachment #9.

Analysis of Lot Dimensions amended development standard: The 50-foot wide lot dimension is a development standard that can influence site design. In this case, the objective is to allow individual units and the lot dimension of 100 feet is not in character with a golf cottage that would require much smaller lot dimensions.

Analysis of Density amended development standard: This development standard for density was not changed in previous cases and the applicant desires to match the density requirement with the development agreement and stipulations for this site. The above table demonstrates that the proposed land area per unit is greater than the existing ordinance requirement.

This density amendment also removes the limitation of 25% lot coverage and would allow 100% lot coverage. This ordinance requirement ensures that open space would be provided on individual R-4R properties as yards are only required at the perimeter property lines. The modification of side yard requirements will allow the development adjacent to the R-4R property line. It is justified for this site because the setting for the development includes the adjacent golf course and natural open space.

Details of the final design of the units will be provided with the development review case.

Community Impact.

The proposed golf course expansion will allow development of a golf club

building campus and golf course that reaches up into a higher elevation than currently planned. The golf course will already be visible off-site when developed and this expansion is very slight, extending approximately 300 feet northwards. Final site design will determine the views but preliminary analysis indicates that the area of golf course expansion visible off site will be from the south and east, not west or north where residential homes are closer to the golf course but are on the other side of and shielded by a mountain.

The amended development standards will allow development with more creative influence, enhancing aesthetics on this site. For example, the modification of the lot area will allow the golf cottages to be distributed about the overall project area rather than clustered into 3-acre parcels. The location of the golf cottages will offer a variety of views and desert environment experiences ranging from wash settings to mountainside settings and all adding to the attraction of this resort golf community. Most of the golf cottages will have limited visual exposure to surrounding properties because of the proposed central location specified on the overall Whisper Rock plan.

The modified development agreement is to allow location of the golf cottages on other parts of the overall golf community without increasing density or land area of the R4-R zoning. Therefore, the community will not realize any increase in land area designated for resort density development.

IMPACT ANALYSIS

Traffic.

The traffic impacts of this development were analyzed with the 29-ZN-2000 zoning case. This proposal does not propose to increase the total number of dwelling units that will be developed on the site; therefore, the proposal will not result in additional traffic compared to the existing approved development.

PCD Findings.

The PCD requires that the Planning Commission and City Council must make **findings** as follows:

- A. That the development proposed is in substantial harmony with the General Plan of the City of Scottsdale, and can be coordinated with the existing and planned development of the surrounding areas. ***This request is consistent with the General Plan and can be designed such that the development is of a visual character consistent with the surrounding area.***
- B. That the streets and thoroughfares proposed are suitable and adequate to serve the proposed uses and the anticipated traffic which will be generated thereby. ***The streets in this area have been planned and categorized for this type of development and the associated levels of traffic.***
- C. That the facts submitted with the application and presented at the hearing establish beyond reasonable doubt that:
 1. In the case of proposed residential development, that such development will constitute a residential environment of sustained desirability and stability; that it will be in harmony with the character of the surrounding area; and that the sites proposed for public facilities, such as schools, playgrounds, and parks are adequate to serve the anticipated population. The Planning Commission and City Council shall be presented written acknowledgement of this from the appropriate school district, the Scottsdale Parks and Recreation Commission and any other responsible agency. ***This is a minor change to an already approved Master Planned Community for which it has been established that the character of development will result in sustained desirability and***

stability, in harmony with the surrounding area. The proposed golf cottage areas will be dispersed throughout the development, with a greater distribution of units in a design style more closely associated with single-family residential development. There are no sites within this proposal that are designated for public facilities.

Use Permit Criteria.

Conditional use permits, which may be revocable, conditional, or valid for a specified time period, may be granted only when expressly permitted only after the Planning Commission has made a recommendation and the City Council has found as follows:

- A. That the granting of such conditional use permit will not be materially detrimental to the public health, safety or welfare. In reaching this conclusion, the Planning Commission and the City Council's consideration shall include, but not be limited to, the following factors:
 1. Damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.
 - *The golf course is a recreational use with limited noise and typically no smoke, odor, dust, vibration or illumination associated with the use. The golf course is not lighted. The golf course amenities have limited off-site visibility because of the internal location within the master planned community.*
 2. Impact on surrounding areas resulting from an unusual volume or character of traffic.
 - *The proposed use permit expansion does not result in an increase in traffic and will be characteristic of the uses already approved for this site.*
 3. There are no other factors associated with this project that will be materially detrimental to the public.
- B. The characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas.
 - *This proposal to expand the golf course and associated amenities will result in development commonly found in other Scottsdale master planned communities and these uses have not demonstrated any detriment to the public.*
- C. The additional conditions specified in Section 1.403, as applicable, have been satisfied.

There are no additional conditions.

Community involvement.

The applicant has met with nearby property owners and Home Owner Associations as well as the Coalition of Pinnacle Peak. The applicant has identified no issues or concerns, and no phone calls or letters of interest have been received by the Planning Department from any homeowners, property owners, or interested parties.

Description of Option A:

The Planning Commission could choose to recommend approval of the request, subject to stipulations.

Description of Option B:

The Planning Commission could choose to continue the case to obtain more information or citizen input.

OPTIONS AND STAFF RECOMMENDATION

Description of Option C:

The Planning Commission could choose to recommend denial of the request, finding that the proposed change does not promote City land use policies.

Recommended Approach:

Staff recommends approval, subject to the attached stipulations.

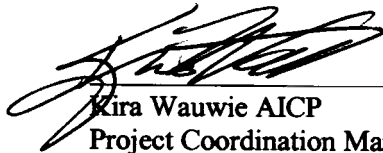
Note to the maker of the Motion:


1. *There are separate stipulations for the Amended Development Standards and Conditional Use Permit cases.*
2. *The Rezoning action requires a motion with Findings and the Use Permit action requires a motion with Criteria.*

RESPONSIBLE DEPT(S) **Planning and Development Services Department**
Current Planning Services

STAFF CONTACT(S) Kira Wauwie AICP
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APPROVED BY


Kira Wauwie AICP
Project Coordination Manager
Report Author


Randy Grant
Chief Planning Officer

ATTACHMENTS

- Applicant's Narrative
2. Context Aerials
- 2A. Aerial Close-Up
3. Land Use Maps
4. Zoning Maps
5. Stipulations – Amended Development Standards
- 5A. Stipulations – Use Permit
6. Additional Information - Amended Development Standards
- 6A. Additional Information - Use Permit
7. Citizen Involvement
8. Correspondence from Public Agencies
9. Site Plan – Amended Development Standards
10. Site Plan – Use Permit
11. Development Agreement

Application Narrative for Revisions to the:

Whisper
R O C K

- Golf Course Use Permit,
- Golf Club Member Cottages Planning Area
- R-4R Amended Development Standards

Owner & Developer: C.T.A.J. Investments, LLC
c/o Grayhawk Development
7377 E. Doubletree Ranch Road, Suite 100
Scottsdale, AZ 85258
480/998-2661

Planning & Design Team:
Planning: G. William Larson Associates
Tornow Design Associates, PC

Engineering: Gilbertson Associates, Inc.

Architecture: Douglas Fredrikson Designs
Scrivner Design Group

Golf Course Designer: Phil Mickelson

Legal Counsel: Earl, Curley & Lagarde

Environmental: S.W.C.A., Inc.

Archaeology: S.W.C.A., Inc.
Archaeological Consulting Service

Prepared By: Tornow Design Associates, PC



Submitted: 09/30/02
Revised: 12/16/02

ATTACHMENT #1

**29-ZN-2000#2
1/03/03**

Application Narrative for Revisions to the:

Whisper Rock Golf Club - Phase II

- Golf Course Use Permit
- Golf Club Member Cottages Planning Area
- R-4R Amended Development Standards

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Section 5.900 (R-4R) Resort District Amended Development Standards.....	8.



Prepared for: *Grayhawk Development*
Prepared by: *Tornow Design Associates*

Whisper Rock Golf Club - Phase II

- Golf Course Use Permit
- Golf Club Member Cottages Planning Area
- R-4R Amended Development Standards

▼ LOCATION.

The 960-acre Whisper Rock project is located between Pima and Scottsdale Roads, and Dove Valley Road alignment on the north and Lone Mountain Road on the south. An existing subdivision (Pinnacle Peak Ranchos) exists between Lone Mountain and Ashler Hills Roads bounded by Hayden and Pima Roads.

In early 1999, the Scottsdale City Council approved a Use Permit for the first phase of the Whisper Rock Golf Club. Since that time, the first eighteen holes of the Golf Club and interim clubhouse have been constructed. Recently, the Scottsdale Development Review Board approved the design of the permanent club house building. The Development Review Board has previously approved the Master Environmental Design Concept Plan and preliminary plats for the first four residential neighborhoods within Whisper Rock. In November 2000, the Scottsdale City Council unanimously approved plans for the second phase of the community including the next golf course component, golf club member cottages and additional custom homesites. In late 2001, the City Council approved plans for the third phase of Whisper Rock, called Sevano Village, which is located roughly in the northwest corner of the project. The phase three plan includes commercial and residential uses as well as a City Neighborhood Park.

Recently, Grayhawk Development added approximately 35-acres of property near the southeast corner of Hayden Road and Ashler Hills Drive (a portion of the Pinnacle Peak Ranchos subdivision). This area was recently replatted for seven custom homesites. This application includes the expansion of the previously approved golf course Use Permit (UP) overlay boundary onto a small portion of the 35-acres.



▼ Whisper Rock Golf Club - Phase II

Golf Course Use Permit, Golf Club Cottage Planning Area & Amended Development Standards
09/30/02 [Revised: 12/16/02]

▼ SUMMARY OF REQUEST.

To provide flexibility in planning for improved golf course design and golf club member cottage placement, the following modifications of the existing approvals for the golf course and the golf club member cottages planning area within the Whisper Rock community are being requested:

- Expansion of the golf course use permit boundary to include an additional property acquisition near the southeast corner of the Hayden and Ashler Hills Road alignments as well as another small area to add flexibility in tee placement

Revision to the golf club member cottages planning area and to the previously approved text and legal description of the planning area included within the Development Agreement, together with an amended application for a Planned Community District [PCD] overlay for improved administration of cottage placement within revised planning area

Revision to the R-4R (previously amended) Amended Development Standards [ADS] for the golf club member cottages

▼ ENVIRONMENTAL CONDITIONS.

E.S.L.O. Landform Conditions. Whisper Rock is located within the Environmentally Sensitive Lands (ESL) district of Scottsdale. All three of the landforms within the ESL district are found within Whisper Rock, including Lower Desert (to the west), Upper Desert (majority of the planning area) and Hillside (encompasses the large boulder pile on the north boundary or the project).

Topography & Slope Conditions. The topography for the golf course and member cottages parcel is gently undulating as the site falls from the northeast to the southwest at an average slope of 2-3%. The site is occasionally bisected by wide, shallow braided washes that flow through the property in a southwesterly direction. Some modestly steeper terrain exists near the north boundary of the Phase II planning area.

Each development parcel within this application will be required to provide NAOS in accordance with city ordinance requirements. NAOS requirements will be based on the actual slope of each individual planning parcel. The required amount of NAOS will be determined as specific roadway alignments and parcel configurations are determined on a parcel-by-parcel basis at the time of Development Review Board approval.

Vegetation and Other Site Features. The site is typical of the upper Sonoran desert areas of north Scottsdale. It features a diverse mix of desert trees, shrubs, ground covers and cactus. The predominant tree species is the palo verde tree while creosote, bursage and jojoba are the main shrubs. Saguaros and cholla are found throughout the site also. An analysis of the significant vegetation masses has been submitted to the city staff for their review. A majority of the plant concentrations, especially the trees, very predictably follow the major wash corridors.



▼ Whisper Rock Golf Club - Phase II

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A native plant inventory of the site has been performed for the entire 960-acre project and approved by Project Review staff. The site is also sprinkled with random outcrops of granite and quartz rock. The outcrops appear throughout Whisper Rock but are found less frequently in the southern half of the site.

Hydrology. P.A.C.E. Engineering and Gilbertson Associates have prepared a thorough analysis of the site hydrology. Their analysis and subsequent Drainage Master Plan has been previously submitted and approved by Project Review staff.

▼ PROPOSED REQUEST

The following is a descriptive summary of the proposed amendments to existing entitlements for the Whisper Rock Golf Club:

1. Golf Course – Revision to Approved Use Permit. The Whisper Rock Golf Club currently features two 18-hole golf courses, a club house "compound", practice range maintenance facility and other golf related facilities. A Use Permit [UP] was originally approved in 1999 [04-UP-99] for a 27-hole course and ancillary facilities. In November of 2000, the City Council approved a revision to the UP [04-UP-99 #2] to include an additional nine holes to the club.

This request is to simply expand the overlay boundary for the approved UP to include additional acreage recently added to the Whisper Rock community as a result of the acquisition of approximately 35 acres of the Pinnacle Peak Rancho subdivision as well as two small areas to the north and west that are being added to gain flexibility in tee box placement. Further, the previously approved program for the ancillary club uses was somewhat theoretical at the time of the original application. This application further refines the club uses.

2. Golf Club Member Cottages – Revision to Approved Amended Development Standards. Also requested is additional refinement of the R-4R ADS to provide more sensitive and dispersed siting of the cottages in potentially smaller clusters. A copy of the proposed revision to the R-4R ADS is included at the end of this report.
3. Golf Club Member Cottages – Revision to Approved Planning Area and Development Agreement. Due to a national membership at the Whisper Rock Golf Club, overnight accommodations are a very important amenity for the members. In November, 2000, the City Council approved a rezoning to R-4R with Amended Development Standards [ADS] and Development Agreement that allows the introduction of no more than 50 member cottages on approximately 10 acres located in and around the golf course and club house compound. The planning area was defined with a legal description which became an exhibit that was part of the approved Development Agreement for the cottages. This request is to expand the planning area boundary for the cottages and provide additional clarification to the Agreement.



▼ Whisper Rock Golf Club - Phase II

Golf Course Use Permit, Golf Club Cottage Planning Area & Amended Development Standards
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This request does not increase the quantity or the density of the cottages which are limited to the maximum of 50, nor does it increase the ultimate 10 acre area that will be zoned R-4R. Simply put, this request allows more sensitivity and flexibility in the planning and placement of the maximum 50 cottages on 10 acres of R-4R, which are already approved.

The City Attorney's office recommended the amendment of the application to include Planned Community District [PCD] overlay as the most effective legal mechanism for providing the flexibility needed for sensitive cottage placement based upon more refined analysis of topography, slope, soil conditions, localized hydrology, vegetation, view and spacing considerations. Neither existing underlying zoning of R-4R, R1-43, and R1-130 E.S.L., nor the current land use budget within each district, is being changed. The Development Agreement will be amended to reflect the expanded cottages planning area and placement process.

▼ GOLF COTTAGE / PCD PLANNING AREA LAND USE BUDGET SUMMARY TABLE.

A brief summary of the Whisper Rock development is delineated below:

Proposed Use[s]	Existing Zoning	Approx. AC.	Approx. UN.	Comments/ Remarks
Golf Cottages	R-4R	10	50	
Golf Course #2	R1-43	27	(22)	[If no golf is built]
	R1-130	126	(39)	[If no golf is built]
Custom Homes	R1-43	42	35	
Total		205	85	With Golf Course
		205	[146]	[W/O Golf Course]

SF-RS.

▼ GOLF COURSE USE PERMIT CRITERIA.

[This section is repeated from the previously approved application – Case 04-UP-99 #2]

The existing, underlying zoning (R1-43, R1-70 and R1-130) on this property allows for the introduction of a golf course. However, a Use Permit application must be reviewed and approved through the public hearing process. The evaluation criteria for granting a Use Permit are outlined in Section 1.400 of the Scottsdale Zoning Ordinance.

The use must not materially affect the health, safety or welfare of the public. Considerations for that evaluation include the following:

Is there damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination?
Due to the fact that a golf course is a passive recreational use, no nuisance from noise, smoke, odor, dust, vibration or illumination is likely once the construction is completed.



▼ Whisper Rock Golf Club - Phase II

Golf Course Use Permit, Golf Club Cottage Planning Area & Amended Development Standards
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- *What is the impact on the surrounding area resulting from an unusual volume or character of traffic?* Access to the clubhouse will be directly from Lone Mountain Road via the extension of Hayden Road. Lone Mountain Road is planned as a major arterial street in the City's General Plan. The traffic generated by the golf use will be slightly less than compared to that generated by the underlying and existing zoning. Please refer to Kimley-Horn Associates traffic impact study submitted with this application.

Are the characteristics of the proposed use compatible with the types of uses permitted in the surrounding areas? The proposed golf course is surrounded predominantly by residentially zoned land. As such, the compatibility of golf with residential uses is ideal if the golf course and subdivisions are planned correctly. The wide golf and wash corridors of this course provide ample separation between the golfer and the resident. Additionally, the desirability of passive open spaces adjacent to residential uses is very a very high premium in Scottsdale and been done very successfully in numerous communities throughout the country.

▼ GOLF CLUB USE SUMMARY.

Club House. As previously stated, the concept for the Whisper Rock Golf Club facilities is to develop a small, residentially scaled compound of detached buildings as opposed to the traditional layout that includes all facilities in one building as found at most golf clubs.

The clubhouse "compound" will be located near the center of the community approximately one-half mile north of Lone Mountain Road off of the extension of Hayden Road. The clubhouse facilities will include dining, men's and women's lockers, golf pro shop, management offices and banquet facilities. A conceptual breakdown of the clubhouse program is as follows:

Pro Shop	± 3,000-5,000 S.F.
Restaurant.....	± 5,000-8,000 S.F.
Bar	± 4,000-6,000 S.F.
Fitness Facility	± 5,000-8,000 S.F.
Men's Lockers.....	± 8,000-10,000 S.F.
Women's Lockers	± 5,000-8,000 S.F.
Cart Storage.....	± 12,000-15,000 S.F.
<u>Management/Offices</u>	<u>± 3,000-5,000 S.F.</u>
Total.....	± 45,000-65,000 S.F.

All of the clubhouse buildings including the maintenance building will feature southwestern style architecture with dark-muted colors and other design elements as dictated by the ESL Ordinance and the approved MEDCP for Whisper Rock.

Irrigation Water. This golf course has an existing and paid-for supply of treated effluent water from the City of Scottsdale through the Reclaimed Water Distribution System (RWDS).



▼ Whisper Rock Golf Club - Phase II

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Access & Parking. The primary access to the clubhouse will be from the extension of Hayden Road north from Lone Mountain Road. Parking will be located within the clubhouse "compound" in smaller clusters consistent with campus feel of the Club. Based on the preliminary program approximately 250-325 parking spaces will be required. The specific design and layout of the parking will also get a more detailed review during the Development Review Board process.

Natural Area Open Space (NAOS). Each development parcel in Whisper Rock is required to provide NAOS in accordance with city ordinance requirements. NAOS requirements will be based on the actual slope of each individual planning parcel.

Pedestrian Circulation. A variety of trail connections are provided within the community including a multi-use trail system as outlined within the Whisper Rock Master Environmental Design Concept Plan. The trail master plan was reviewed and approved by the Development Review Board last year.

▼ SCOTTSDALE GOLF COURSE POLICY.

[This section is repeated from the previously approved application – Case 04-UP-99 #2]

In May 1997, the Scottsdale City Council adopted a new Golf Course Policy document to establish guidelines for the development of new golf courses within the city. Many of the goals outlined in that document have been considered and incorporated into the design of this golf course and are summarized below. Policies relating to municipal courses are not being addressed. The following golf course policy standards are being met:

- Incorporate nationally recognized environmental performance standards into the design of the proposed course.
- utilizing design standards established by the USGA, American Association of Golf Course Architects and EPA
- working with vegetation and wildlife habitat areas
- grading that blends with and compliments the surrounding environment
- designing the course to respect and protect on-site natural features
- maximize the visual relationship with adjacent land uses and mitigate negative impacts
- use lower water-use landscape as buffers to adjacent parcels
- use an indigenous plant palette which is consistent with the existing site for the golf course
- avoid artificial barriers (such as walls and fences) to buffer adjacent uses
- lighting and public address systems should be carefully designed to minimize the impact to adjacent uses
- the golf course should support the city's economic and tourism interests
- include functional linkages between other open spaces within the community
- protect wildlife movement by maintaining activity corridors
- utilize reclaimed water through the RWDS system or other means



▼ Whisper Rock Golf Club - Phase II

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maintain a back-up water system
use ADWR and city water conservation techniques where possible

▼ GENERAL PLAN.

These requests are consistent with the previously approved General Plan amendment and the City's current General Plan.

▼ NEIGHBORHOOD CONTACT & INPUT.

During the last four years, the owner and/or the primary neighborhood liaison, G. William Larson Associates, have spent a great deal of time talking to local residents and neighborhood associations that live in this area. The reaction to the Whisper Rock project thus far can be characterized as very favorable. This process will continue throughout implementation of the community. A summary of that contact effort has been submitted under separate cover with this application.

▼ CONCLUSIONS.

The following outline summarizes the primary elements of this request:

- Expansion of golf course use permit boundary to incorporate additional property added to the Whisper Rock Community subsequent to the previous use permit approval and additional small areas to the north and west
- 2. Revision of golf cottage planning boundary and related Development Agreement together with application of PCD overlay on revised planning area for additional flexibility in cottage placement
- 3. Clarification of the amended development standards for the Whisper Rock Golf Club member cottages previously approved by the City Council
- 4. Future detailed design of the second golf course and golf cottages will be reviewed by the DRB and Project Review Staff
- 5. **NO INCREASE IN 10 ACRES THAT WILL BE ZONED R-4R WITH A MAXIMUM OF 50 GOLF CLUB MEMBER COTTAGES**



▼ Whisper Rock Golf Club - Phase II

Golf Course Use Permit, Golf Club Cottage Planning Area & Amended Development Standards
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▼ SECTION 5.900 (R-4R) RESORT DISTRICT AMENDED DEVELOPMENT STANDARDS.

[Note: Previously approved amendments are represented in **BOLD CAPS**. Proposed revisions are represented in ***BOLD, ITALIC CAPS***.]

Sec. 5.900. (R-4R) RESORT/TOWNHOUSE RESIDENTIAL DISTRICT.

Sec. 5.901. Purpose.

This district is intended primarily for self-contained accommodations which include recreational amenities and services customarily furnished at hotels, including the service of meals. Additionally, the district provides for residential development having either party walls or walled courtyards.
(Ord. No. 3069, § 1, 9-16-97)

Sec. 5.902. Approvals required.

- A. No structure or building shall be built or remodeled upon land in the R-4R district until Development Review [Board] approval has been obtained as outlined in article I, section 1.900 hereof.
- B. *Tentative plan at time of rezoning.*
 - 1. The Planning Commission or City Council may require any application for rezoning to resort district to be accompanied by a tentative overall development plan which shall show the following:
 - a. Topography.
 - b. Proposed street system.
 - c. Proposed block layouts.
 - d. Proposed reservation for parks, parkways, playgrounds, recreation areas and other open spaces.
 - e. Off-street parking space.
 - f. Types of buildings and portions of the area proposed therefor.
 - g. Locations of buildings, garages and/or parking spaces.
 - h. A tabulation of the total number of acres in the proposed project and a percentage thereof designated for the proposed building types.
 - i. A tabulation of overall density per gross acres.
 - j. Preliminary plans and elevations of proposed major buildings and any proposed dwelling types.
 - 2. The approved development review plan must substantially conform to the plan submitted at the time of rezoning.

(Ord. No. 3225, § 1, 5-4-99)

Sec. 5.903. Use regulations.

- A. *Permitted uses.* Buildings, structures or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:
 - 1. Resorts.
 - 2. Hotels.
 - 3. Motels.



▼ Whisper Rock Golf Club - Phase II

Golf Course Use Permit, Golf Club Cottage Planning Area & Amended Development Standards
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4. Guest ranches.
5. Commercial uses appurtenant thereto, such as restaurants, cocktail lounges, small retail shops; provided that the entrance to any such appurtenant use shall be from the lobby, arcade or interior patio.
6. Dwelling units having either party walls or walled courtyards made available for rent, lease or sale.
7. Accessory buildings and uses customarily incidental to the permitted uses, including private garage, home occupations, swimming pool, recreation buildings and walled driveway entrance.
8. Municipal uses.
- 8.1. Personal wireless service facilities; minor, subject to the requirements of sections 1.906, 3.100 and 7.200.
9. Timeshare project.
10. Churches and places of worship.
11. Day care home.

B. Permitted uses by conditional use permit.

1. Golf courses.
2. Personal wireless service facilities; major, subject to the requirements of sections 1.400, 3.100 and 7.200.
3. Recreational uses (see section 1.403 for specific uses and development criteria for each).

(Ord. No. 2323, § 1, 12-4-90; Ord. No. 2394, § 1, 9-16-91; Ord. No. 2430, § 1, 1-21-92; Ord. No. 2571, § 1, 6-15-93; Ord. No. 2858, § 1, 12-5-95; Ord. No. 3048, § 2, 10-7-97; Ord. No. 3103, § 1, 1-6-98; Ord. No. 3225, § 1, 5-4-99)

Sec. 5.904. Property development standards.

The following property development standards shall apply to all land and buildings in the R-4R district:

- A. **Lot area.** The overall site shall contain a minimum of ~~seven and one-half (7 1/2) THREE (3)~~ **FIVE THOUSAND (5,000) SQUARE FEET** ~~area~~ prior to street dedications.
- B. **Lot dimensions.**
 1. **Width.** The overall site shall have a minimum width of ~~three hundred (300) ONE HUNDRED (100) FIFTY (50)~~ feet.
- C. **Density. SHALL NOT EXCEED AN AGGREGATE OF FIFTY (50) UNITS PER TEN (10) ACRES OF R-4R DISTRICT LAND.**
 1. ~~The minimum gross land area per guest room shall be four thousand one hundred (4,100) square feet.~~
 2. ~~The minimum gross land area per dwelling unit having either party walls or walled courtyards made available for rent, lease or sale shall be five thousand seven hundred seventy (5,770) square feet.~~
 3. ~~Buildings may cover an aggregate area of twenty five (25) percent excluding parking areas.~~
 4. ~~The City Council may regulate concentrations of density by site plan approval.~~



▼ Whisper Rock Golf Club - Phase II

Golf Course Use Permit, Golf Club Cottage Planning Area & Amended Development Standards
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D. *Building height.*

1. No building shall exceed ~~thirty-five (35)~~ **TWENTY-FOUR (24)** feet in height.

E. *Overall side yard requirements.*

1. There shall be a yard a minimum of thirty (30) feet in depth adjacent to all perimeter property lines, including property lines abutting perimeter streets, except that the minimum yard shall be only twenty (20) feet adjacent to those perimeter property lines that abut districts other than R-1.
2. Within one hundred (100) feet of any perimeter **ARTERIAL** street or any R-1 district boundary line all buildings shall be:
 - a. Used only for guest rooms that are detached from central hotel facilities or for dwelling units.
 - b. A maximum of ~~one (1)-story~~ **TWENTY-FOUR (24)** in height.
3. There shall be a yard a minimum of one hundred (100) feet in depth adjacent to all perimeter **ARTERIAL** streets, maintained as meaningful open space except for pedestrian and vehicular access ways, unless buildings as allowed in 2 above are constructed. **THIS SETBACK REQUIREMENT DOES NOT APPLY TO INTERNAL PRIVATE COLLECTOR STREETS.**
4. Within fifty (50) feet of any district boundary line other than R-1, or any property line abutting additional R-4R zoning, all buildings shall be:
 - a. Used only for guest rooms that are detached from central hotel facilities or for dwelling units.
 - b. A maximum of ~~one (1)-story~~ **TWENTY-FOUR (24)** in height.

EXCEPTION: THERE SHALL BE A YARD A MINIMUM OF ZERO (0) FEET IN DEPTH ADJACENT TO THOSE PROPERTY LINES THAT ABUT ANY PERMANENT OPEN SPACE USE INCLUDING GOLF COURSES, NAOS TRACTS OR EASEMENTS OR OTHER DESIGNATED OPEN SPACES ADJACENT TO THE PARCEL.

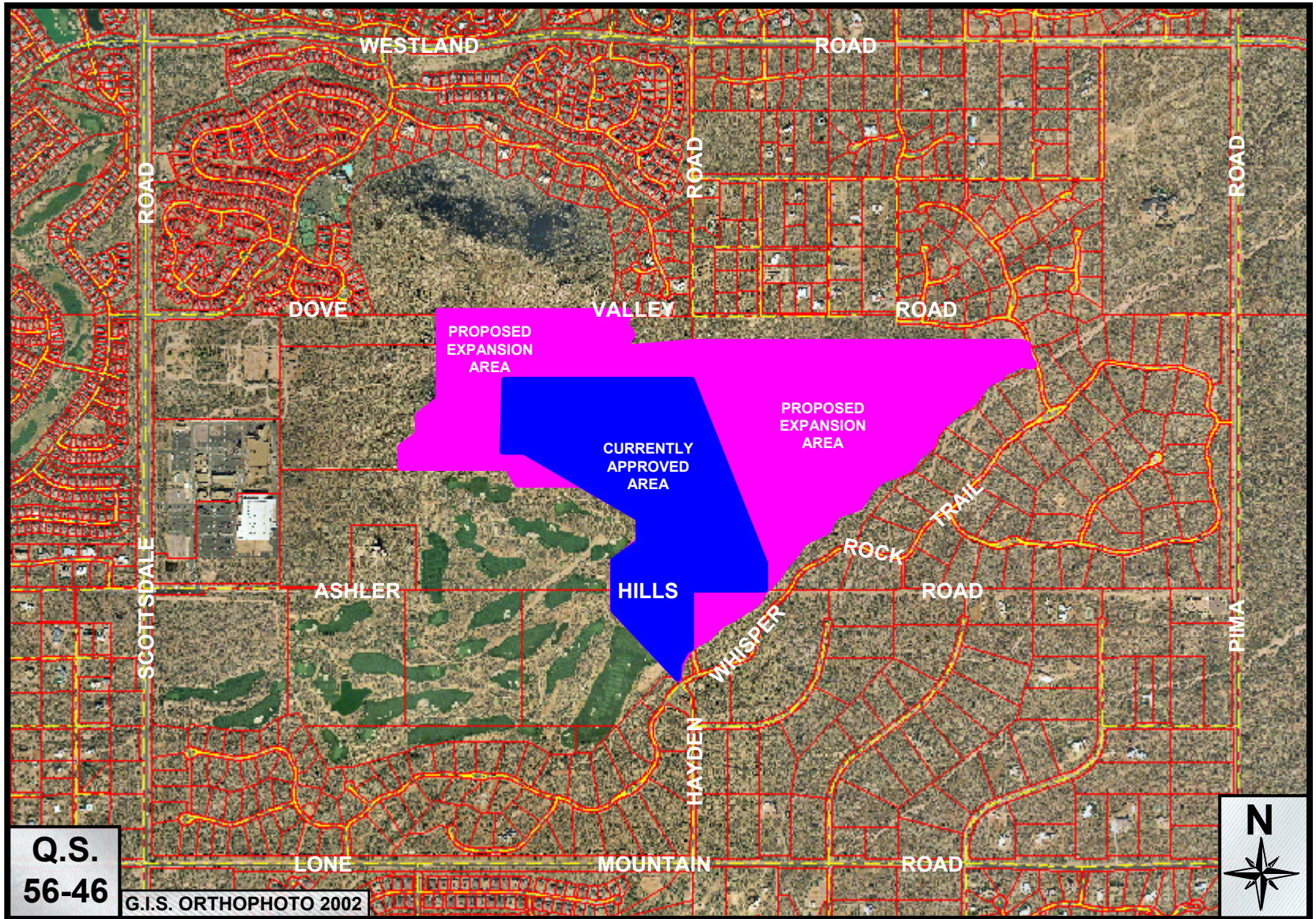
F. *Buildings, walls, fences and landscaping.*

1. Walls, fences and hedges not to exceed eight (8) feet in height and walled driveway entrances not to exceed six (6) feet in height shall be permitted, except that walls, fences and hedges must not exceed three (3) feet in height in the required one-hundred-foot yard along street frontages and in the ten (10) feet adjacent to the street where a thirty-foot setback is allowed along street frontages. Those yards must be maintained as landscaped open space and may be penetrated by pedestrian and vehicular access ways only. (Walled driveway entrances not to exceed six (6) feet in height shall be permitted within the setback requirements if such entrance is compatible with the surrounding development).

G. *Other requirements and exceptions as specified in article VII.*

(Ord. No. 1922, § 1, 11-4-86; Ord. No. 2509, § 1, 6-1-93; Ord. No. 2818, § 1, 10-17-95)

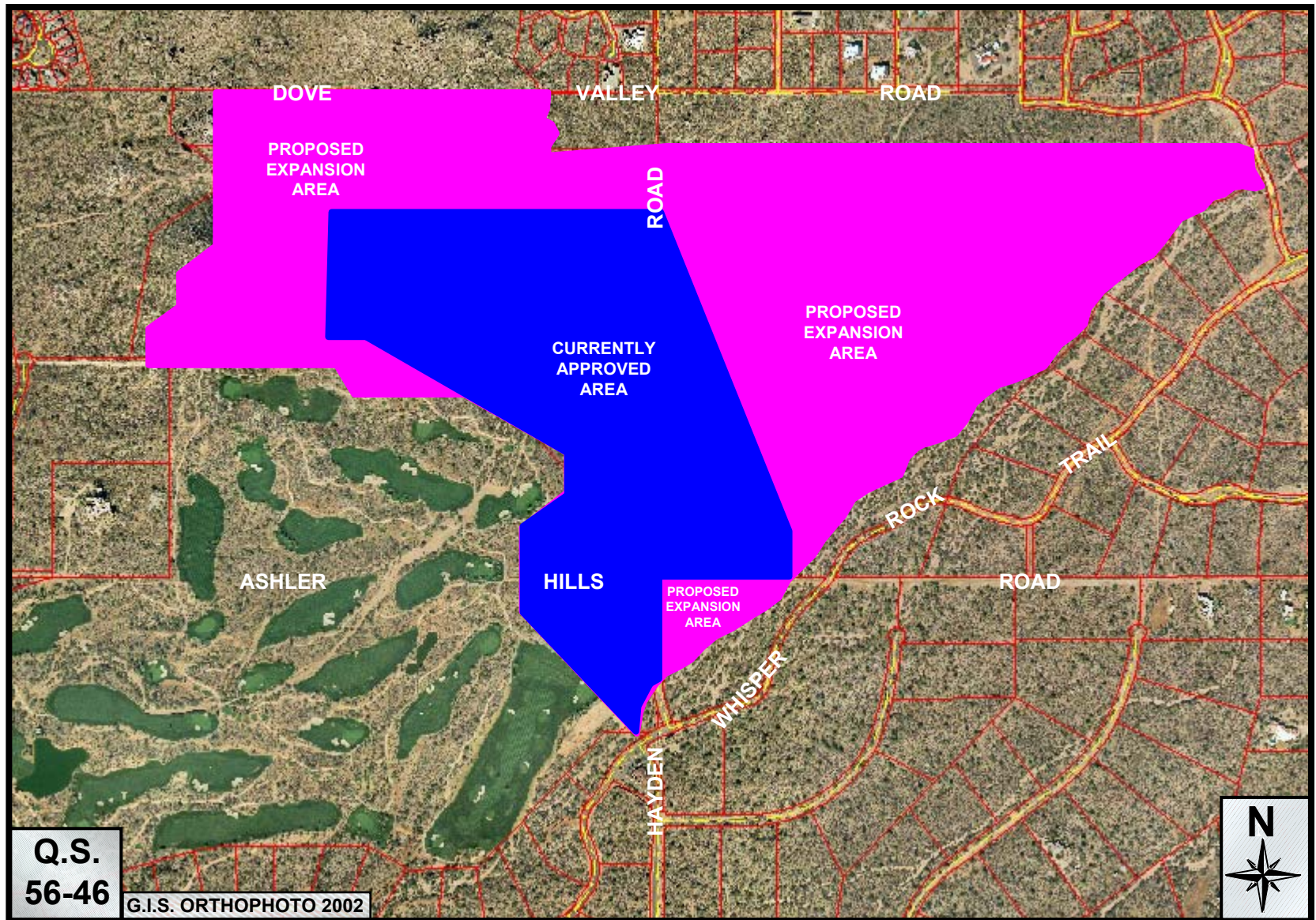




Whisper Rock

29-ZN-2000#2

ATTACHMENT #2

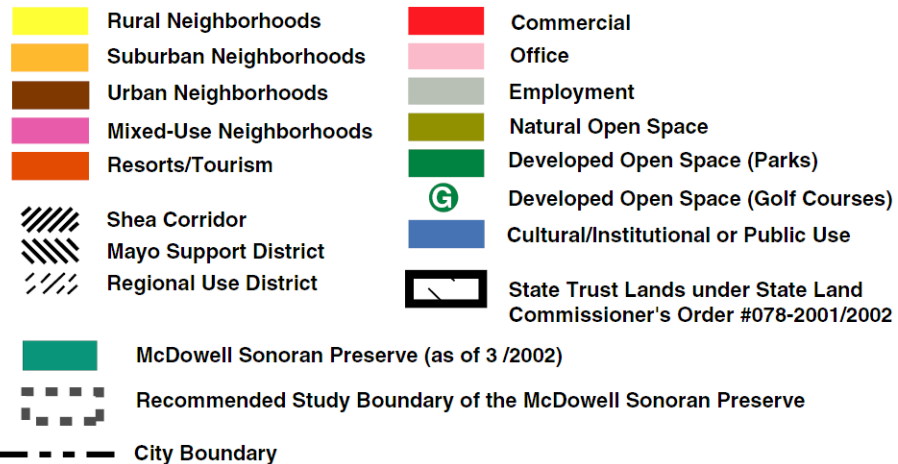
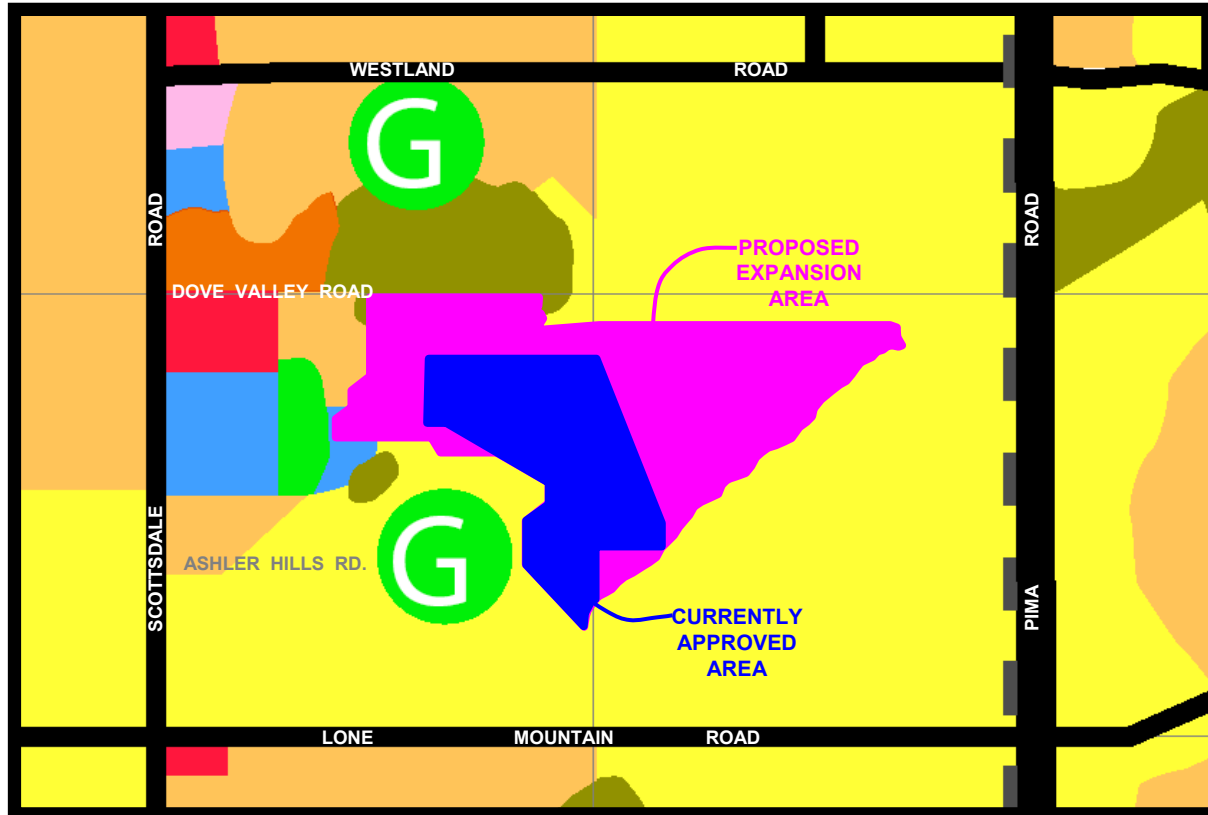


Whisper Rock

29-ZN-2000#2

ATTACHMENT #2A

General Plan



29-ZN-2000#2
ATTACHMENT #3

PLANNING/ DEVELOPMENT

1. CONFORMANCE TO DEVELOPMENT SUBMITTAL. Development shall conform with the site plan and development program narrative submitted by TORNOW DESIGN ASSOC. AND DATED ~~9/15/00~~ 3 JANUARY 2003. These stipulations take precedence over the above-referenced site plan and development program. Any proposed significant change, as determined by the Zoning Administrator, shall be subject to subsequent public hearings before the Planning Commission and City Council.
2. MAXIMUM DWELLING UNITS/MAXIMUM DENSITY. Maximum dwelling units and maximum density shall be as indicated on the approved development submittal attached to this case-, EXCEPT AS MODIFIED HEREIN. THE MAXIMUM NUMBER OF DWELLING UNITS WITHIN THE R-4R PARCEL SHALL BE FIFTY (50) DWELLING UNITS TO BE LOCATED ON NOT MORE THAN 10 ACRES.
- ~~3. SITE PLAN APPROVAL. Prior to Development Review Board submittal for parcels 3A and 3B (the casita parcels, or appropriate reconfiguration thereof) the developer shall submit a legal description for each parcel. Before any permits can be issued on parcels 3A and 3B, the official zoning ordinance shall be adopted by City Council.~~
3. COMPARABLE DISTRICT. THE SITE SHALL BE ZONED TO PLANNED COMMUNITY (PC) DISTRICT. THE DEVELOPER HAS PROPOSED A SITE PLAN AND DEVELOPMENT PROGRAM WITH USES AND DENSITIES COMPARABLE TO THE ZONING DISTRICT OF RESORT/TOWNHOUSE RESIDENTIAL DISTRICT (R-4R). THE PLANNING AND DEVELOPMENT SERVICES GENERAL MANAGER, OR DESIGNEE, SHALL DETERMINE THE COMPARABLE ZONING CATEGORY BASED ON THE TYPE AND INTENSITY OF LAND USES, AT THE TIME OF FINAL PLANS SUBMITTAL.
4. CONFORMANCE TO AMENDED DEVELOPMENT STANDARDS. Development shall conform with the amended development standards dated 9/15/00 and attached in the Whisper Rock narrative-, EXCEPT THE R-4R AMENDED DEVELOPMENT STANDARDS. DEVELOPMENT WITHIN THE R-4R PARCEL SHALL CONFORM TO THE AMENDED DEVELOPMENT STANDARDS DATED 3 JANUARY 2003, AS ATTACHED IN THE WHISPER ROCK NARRATIVE. Any change to the development standards shall be subject to subsequent public hearings before the Planning Commission and City Council.
5. PEDESTRIAN ACCESS. With the Development Review Board submittal, the developer shall submit a conceptual trails and path plan providing pedestrian access to the recreational and commercial areas on and adjacent to the site.
6. USE. The resort (casita) use is intended for members of the golf club only. Rental of the casitas to the general public shall be prohibited. ~~Within 120 days, the applicant shall return with a development agreement restricting the uses in the R-4R district to those associated with resort casita and golf course uses.~~

ENVIRONMENTAL DESIGN

1. ALTERATIONS TO NATURAL WATERCOURSES. Any proposed alteration to the natural state of watercourses with a 100 year peak flow rate estimated between 250 cfs and 749 cfs shall be subject to Development Review Board approval.
2. VISTA CORRIDOR. All watercourses with a 100 year peak flow rate of 750 cfs or greater shall be designated as Vista Corridors. Each Vista Corridor shall be established by a continuous scenic easement with a minimum width of one hundred (100) feet. Each Vista Corridor easement shall include, at a minimum, any existing low flow channels, all major vegetation, and the area between the tops of the banks of the watercourses. At the time of the Development Review Board submittal, the developer shall stake the boundaries of the Vista Corridor easement as determined by city staff. All Vista Corridors shall be left in a natural state. The final plat or site plan shall show and dedicate all Vista Corridor easements.
3. VISTA CORRIDOR EASEMENTS-ADJACENT WALLS. Solid walls adjacent to Vista Corridor easements shall comply with the following standards:
 - a. Walls shall not be constructed within the Vista Corridor easement.
 - b. Walls shall be located only within any approved construction envelopes.
 - c. Solid, opaque walls higher than three (3) feet shall be set back four (4) feet from the approved Vista Corridor easement for each one (1) foot of solid, opaque wall height above three (3) feet. No wall shall exceed six (6) feet in height.
4. BOULDERS AND BEDROCK OUTCROPS. With the Development Review Board submittal, the developer shall submit a plan identifying all boulders larger than four (4) feet in diameter and all bedrock outcrops.
5. NON-PROTECTED NATIVE PLANTS. Native plants which are not protected by the Scottsdale Revised Code native plant provisions, but which are necessary for on-site re-vegetation, are suitable for transplanting, or are necessarily uprooted for road building or similar construction, as determined by city staff, shall be stockpiled during construction and shall be replanted in on-site landscape areas by the developer before the final site inspection.
6. LOCATION OF INTERNAL STREETS AND DRIVEWAYS. Before Development Review Board submittal, the developer shall stake the alignments for all internal streets and driveways subject to inspection by city staff to confirm that the proposed alignments result in the least environmental and hydrological impact. The Zoning Administrator may approve the use of rectified aerial photographs in lieu of on-site staking.
7. MAINTENANCE AND PRESERVATION-RECORDED AGREEMENT. Before issuance of any building permit for the site, the developer shall record an agreement, satisfactory to city staff, detailing the maintenance and preservation by the developer and its successors of all common areas, landscape buffers, natural areas, drainage easements and private access ways on the site and abutting rights-of-way. These designated areas shall not be accepted for maintenance or be accepted for ownership by the city without the approval of the City Council.

8. CONSTRUCTION ENVELOPES. As part of the Development Review Board submittal for any parcel, a building envelope exhibit shall be included for review and subject to approval.
9. NATURAL AREA OPEN SPACE (NAOS)-IDENTIFICATION. With the Development Review Board submittal, the developer shall submit a plan for the site identifying the required NAOS and a table identifying, as to each lot and tract, the required amount of NAOS, the percentage of slope, and the type of land form. All required NAOS shall be dedicated or conveyed in conformance with the Scottsdale Revised Code and permanently maintained as NAOS.

MASTER PLANS

1. MASTER PLANS GENERALLY. The developer shall have each addendum to the Master Plan specified below prepared by a registered engineer licensed to practice in Arizona prior to any Development Review Board submittal
 - a. Schedule A - Addendum to the Circulation Master Plan (including paths & trails)
 - b. Schedule B - Addendum to the Water & Wastewater Master Plans
 - c. Schedule C - Addendum to the Master Environmental Design Concept Plan
 - d. Schedule D - Addendum to the Drainage Master Plan

SCHEDULE A: Addendum to the Circulation Master Plan

1. ADDENDUM COPIES. Before approval of the addendum to the master Circulation Plan by the Transportation Department, the developer shall, when requested by city staff, submit two (2) hard copies and one (1) disc copy of the complete addendum.
2. ADDENDUM APPROVAL. Before the improvement plan submittal to the Project Quality/Compliance Division, the developer shall have obtained approval of the addendum to the Master Circulation Plan.

SCHEDULE B: Addendum to the Water & Wastewater Master plans

1. ADDENDUM COPIES. Before approval of the addendum to the Master Water & Wastewater Master plan report by the Water Resources Department, the developer shall, when requested by city staff, submit two (2) hard copies and one (1) disc copy of the complete addendum.
2. ADDENDUM APPROVAL. Before the improvement plan submittal to the Project Quality/Compliance Division, the developer shall have obtained approval of the addendum to the Master Water & Wastewater Master plan report.

SCHEDULE C: Addendum to the Master Environmental Design Concept Plan

1. ADDENDUM COPIES. Before approval of the addendum to the Master Environmental Design Concept Plan report by the Community Development

Department, the developer shall, when requested by city staff, submit two (2) hard copies and one (1) disc copy of the complete addendum.

2. ADDENDUM APPROVAL. Before the improvement plan submittal to the Project Quality/Compliance Division, the developer shall have obtained approval of the addendum to the Master Environmental Design Concept Plan report.

SCHEDULE D: Addendum to the Drainage Master Plan

1. ADDENDUM COPIES. Before approval of the addendum to the master drainage report by the Drainage Planning Department, the developer shall, when requested by city staff, submit two (2) hard copies and one (1) disc copy of the complete addendum.
2. ADDENDUM APPROVAL. Before the improvement plan submittal to the Project Quality/Compliance Division, the developer shall have obtained approval of the addendum to the master drainage report.
3. DISTURBED WASH CORRIDORS. The predominant storm water management component shall be the use of the existing, undisturbed washes that traverse the site, AS DETERMINED BY CITY STAFF. WITH THE DEVELOPMENT REVIEW BOARD SUBMITTAL, the developers shall show revision to these washes on the master drainage plan, and/or by subsequent addendum.

CIRCULATION

1. STREET CONSTRUCTION. Before issuance of any certificate of occupancy is issued for the site, the developer, at its expense, shall dedicate right-of-way and construct street improvements, in conformance with the approved Master Circulation Plan AND ANY ADDENDA.
2. IN LIEU PAYMENTS. At the direction of city staff, before issuance of any building permit for the site, the developer shall not construct the street improvements specified by the approved Master Circulation Plan AND ANY ADDENDA, but shall make an in lieu payment to the city. Before any final plan approval, the developer shall submit an engineer's estimate for plan preparation, design and construction costs of a half street, including lanes of pavement with curb and gutter, half median improvements (curb, gutter and landscaping), and any required drainage structures. The in lieu payment shall be based on this estimate, plus five percent (5%) contingency cost and other incidental items, as determined by city staff.
3. AUXILIARY LANE CONSTRUCTION. Before issuance of any certificate of occupancy for the site, the developer, at its expense, shall dedicate the necessary right-of-way, as determined by city staff, and construct right-turn deceleration lanes at all site entrances as necessary, in conformance with the approved Circulation Master Plan AND ANY ADDENDA, and the Design Standards and Policies Manual.
4. RIGHT-OF-WAY ABANDONMENT. With the final plat submittal, the developer shall submit an application to abandon, as necessary, any existing right-of-way that is not to be incorporated in the site street system. The city makes no commitment to approve the application for abandonment.

5. PRIVATE STREET CONSTRUCTION. All private streets shall be constructed to full public street standards, except equivalent construction materials or wider cross sections may be approved by City Staff. In addition, all private streets shall conform to the following requirements:
 - a. No internal private streets shall be incorporated into the city's public street system at a future date unless they are constructed, inspected, maintained and approved in conformance with the city's public street standards. Before any lot is sold, the developer shall record a notice satisfactory to city staff indicating that the private streets shall not be maintained by the city.
 - b. Before any issuance of certificate of occupancy for the site, the developer shall post access points to private streets to identify that vehicles are entering a private street system.
 - c. Secured access shall be provided on private streets only. The developer shall locate security gates a minimum of 75 feet from the back of curb to the intersecting street. The developer shall provide a vehicular turn-around between the public street and the security gate.

DRAINAGE AND FLOOD CONTROL

1. CONCEPTUAL DRAINAGE REPORT. With the Development Review Board submittal, the developer shall submit a conceptual drainage report and plan subject to city staff approval. The conceptual report and plan shall conform to the Design Standards and Policies Manual - Drainage Report Preparation. In addition, the conceptual drainage report and plan shall:
 - a. Demonstrate consistency with the approved master drainage plan and report entitled Final Drainage Master Plan for Whisper Rock Development, prepared by Pacific Advanced Civil Engineering, revised January 2000, accepted ~~as noted~~ by city staff, and any subsequent addenda to the master drainage plan.
 - b. Include flood zone information to establish the basis for determining finish floor elevations in conformance with the Scottsdale Revised Code.
2. FINAL DRAINAGE REPORT. With the improvement plan submittal to the Project Quality/Compliance Division, the developer shall submit a final drainage report and plan subject to city staff approval. The final drainage report and plan shall conform to the Design Standards and Policies Manual – Drainage Report and Preparation. In addition, the final drainage report and plan shall:
 - a. Demonstrate consistency with the approved master drainage plan and report entitled Final Drainage Master Plan for Whisper Rock Development, prepared by Pacific Advanced Civil Engineering, revised January 2000, accepted ~~as noted~~ by city staff, and any subsequent addenda to the master drainage plan.
 - b. Addenda generated by final drainage analysis for this site shall be added to the appendix of the final drainage report.
 - c. Determine easement dimensions necessary to accommodate design discharges.
 - d. Demonstrate how the storm water storage requirement is satisfied, indicating the location, volume and drainage area of all storage.

- e. Include flood zone information to establish the basis for determining finish floor elevations in conformance with the Scottsdale Revised Code.
 - f. Include a complete description of requirements relating to project phasing.
3. STORM WATER STORAGE REQUIREMENT. On-site storm water storage is required for the full 100-year, 2-hour storm event, or by the conditions set forth in the approved Final Drainage Master Plan for Whisper Rock Development or subsequent addenda to the master drainage report.
 - a. Storage basin capacity shall not be reduced by proposed landscaping improvements.
 - b. Storage basin design shall incorporate significant landscaping requirements.
 - c. Improvement plans shall NOT be submitted to the city for review until the developer has obtained the waiver approval.
4. STORM WATER STORAGE EASEMENTS. With the Development Review Board submittal, the developer shall submit a site plan subject to city staff approval. The site plan shall include and identify tracts with easements dedicated for the purposes of storm water storage, in conformance with the Scottsdale Revised Code and the Design Standards and Policies Manual.
5. DRAINAGE EASEMENTS. Before the issuance of any building permit for the site, the developer shall dedicate to the city, in conformance with the Scottsdale Revised Code and the Design Standards and Policies Manual, all drainage easements necessary to serve the site.

WATER

1. COMPLIANCE. All water lines shall be designed and constructed in accordance with the city's Water Master Plan and the approved Whisper Rock Water Master Plan prepared by GeoDimensions, Inc. In addition:
 - (1) Any design that modifies the approved master report and plan requires from the developer a site-specific addendum to the master plan, subject to review and approval by the Water Resources Department.
 - (2) Addenda generated by the analysis for this site shall be added to the appendix of the approved master report.
2. NEW WATER FACILITIES. Before the issuance of Letters of Acceptance by the Inspection Services Division, the developer shall provide all water lines and water related facilities necessary to serve the site. Water line and water related facilities shall conform to the city Water System Master Plan.
3. WATERLINE EASEMENTS. Before the issuance of any building permit for the site, the developer shall dedicate to the city, in conformance with the Scottsdale Revised Code the Design Standards and Policies Manual, all water easements necessary to serve the site.

WASTEWATER

1. COMPLIANCE. All sewer lines shall be designed and constructed in accordance with the city's Wastewater Master Plan and the approved Whisper Rock Wastewater Master Plan and report prepared by GeoDimensions, Inc. In addition:
 - (1) Any design that modifies the approved master reports and plans requires from the developer a site-specific addendum to the master plan, subject to review and approval by the Water Resources Department.
 - (2) Addenda generated by the analysis for this site shall be added to the appendix of the approved master report.
2. NEW WASTEWATER FACILITIES. Before the issuance of Letters of Acceptance by the Inspection Services Division, the developer shall provide all sanitary sewer lines and wastewater related facilities necessary to serve the site. Sanitary sewer lines and wastewater related facilities shall conform to the city Wastewater System Master Plan.
3. SANITARY SEWER EASEMENTS. Before the issuance of any building permit for the site, the developer shall dedicate to the city, in conformance with the Scottsdale Revised Code and the Design Standards and Policies Manual, all sewer easements necessary to serve the site.

OTHER REQUIREMENTS

1. ENVIRONMENTAL PROTECTION AGENCY (EPA) REQUIREMENTS. All construction activities that disturb one or more acres shall obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Construction Activities. [NOI forms are available in the City of Scottsdale One Stop Shop, 7447 East Indian School Road, Suite 100. Contact Region 9 of the U.S. Environmental Protection Agency at 415-744-1500, and the Arizona Department of Environmental Quality at 602-207-4574 or at web site <http://www.epa.gov/region9>.]
The developer shall:
Submit a completed Notice of Intent (NOI) to the EPA.
Submit a completed Storm Water Pollution Prevention Plan (SWPPP) to the EPA.
2. NOTICE OF INTENT (NOI). With the improvement plan submittal to the Project Quality/Compliance Division, the developer shall submit a copy of the NOI.
3. SECTION 404 PERMITS. Before issuance of any development permits for the site, the developer shall certify that it complies with, or is exempt from, Section 404 of the Clean Water Act of the United States. [Section 404 regulates the discharge of dredged or fill material into a wetland, lake, (including dry lakes), river, stream (including intermittent streams, ephemeral washes, and arroyos), or other waters of the United States.]

4. DUST CONTROL PERMITS. Before commencing grading on sites 1/10 acre or larger, the developer shall have obtained a Dust Control Permit (earth moving equipment permit) from Maricopa County Division of Air Pollution Control. Call the county (602)-507-6727 for fees and application information.
5. UTILITY CONFLICT COORDINATION. With the improvement plan submittal to the Development Quality/Compliance Division, the developer shall submit a signed No Conflict form (not required for city owned utilities) from every affected utility company.
6. ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY REQUIREMENTS (ADEQ). The developer shall be responsible for conformance with ADEQ regulations and requirements for submittals, approvals, and notifications. The developer shall demonstrate compliance with Engineering Bulletin #10 Guidelines for the Construction of Water Systems, and Engineering Bulletin #11 Minimum Requirements for Design, Submission of Plans, and Specifications of Sewerage Works, published by the ADEQ. In addition:
 - a. Before approval of final improvement plans by the Project Quality/Compliance Division, the developer shall submit a cover sheet for the final improvement plans with a completed signature and date of approval from the Maricopa County Environmental Services Department (MCESD).
 - b. Before issuance of encroachment permits by city staff, the developer shall provide evidence to city staff that a Certificate of Approval to Construct Water and/or Wastewater Systems has been submitted to the MCESD. This evidence shall be on a document developed and date stamped by the MCESD staff.
 - c. Before commencing construction, the developer shall submit evidence to city staff that Notification of Starting Construction has been submitted to the MCESD. This evidence shall be on a document developed and date stamped by the MCESD staff.
 - d. Before acceptance of improvements by the city Inspection Services Division, the developer shall submit a Certificate of Approval of Construction signed by the MCESD and a copy of the As-Built drawings.
 - e. Before issuance of Letters of Acceptance by the city Inspection Services Division, the developer shall:
 - (1) Provide to the MCESD, As-Built drawings for the water and/or sanitary sewer lines and all related facilities, subject to review and approval by the MCESD staff, and to city staff, a copy of the approved As-Built drawings and/or a Certification of As-Built, as issued by the MCESD.
 - (2) Provide to the MCESD a copy of the Engineers Certificate of Completion with all test results, analysis results, and calculations, as indicated on the form.
 - (3) Provide to the MCESD a copy of the "Request for Certificate of Approval of Construction" of water/sewer lines with all appropriate quantities.
 - (4) Provide the city Inspection Services Division a copy of the Certificate of Approval of Construction, as issued by the MCESD.

STIPULATIONS FOR CASE ~~4-UP-1999 #2~~
4-UP-1999#3

PLANNING/ DEVELOPMENT

1. CONFORMANCE TO DEVELOPMENT SUBMITTAL. Development shall be in conformance with the site plan and development program submitted by Tornow Design Associates and dated ~~9/15/00~~ 3 January 2003. These stipulations take precedence over the above-referenced site plan and development program. Any proposed significant change, as determined by the Community Development Administrator shall be subject to subsequent public hearings before the Planning Commission and City Council.
2. REQUIRED DEVELOPMENT SUBMITTALS. The following items may be subject to approval through future public hearings, which may include amendment to the use permit, amendment to the appropriate Master plan and/or Development Review Board approval as determined by the Zoning Administrator:
 - A. Clubhouse, cart storage, and maintenance building specific site plans, including parking and storage yards,
 - B. Public address; systems; location and sound level,
 - C. Exterior site lighting,
 - D. Driving range and any associated lighting, including photometric analysis,
 - D. Out buildings throughout the golf course, including locations,
 - E. Cart path alignments and path crossings of watercourses 250 cfs and greater.
3. CONTINUING AFFECT. EXCEPT AS MODIFIED IN THESE STIPULATIONS, THE Conditions of case 4-UP-99 still apply.

ENVIRONMENTAL DESIGN

1. ALTERATIONS TO NATURAL WATERCOURSES. Any proposed alteration to the natural state of watercourses with a 100 year peak flow rate estimated between 250 cfs and 749 cfs shall be subject to Development Review Board approval.
2. VISTA CORRIDOR WATERCOURSES. All watercourses with a 100 year peak flow rate of 750 cfs or greater shall be designated as Vista Corridors and shall be established by a continuous scenic easement. The average width of the easement shall be one hundred feet. Each Vista Corridor easement shall include, at a minimum, any existing low flow channels and the area between the tops of the banks of the watercourses. At the time of the Development Review Board submittal, the developer shall stake the boundaries of the Vista Corridor easement as determined by city staff. All Vista Corridors shall be left in a natural state to the greatest extent possible. The final plat or site plan shall show and dedicate all Vista Corridor easements. Any vista corridor easements and any associated crossings may be subject to Development Review Board approval.
3. NATURAL AREA OPEN SPACE (NAOS)-IDENTIFICATION. With the Development Review Board submittal, the developer shall submit a plan for the site identifying the provided NAOS, to the satisfaction of Project Coordination staff. The developer shall also include a table identifying the required and provided amount of NAOS to the satisfaction of Project Coordination staff.
4. LIGHTING. With the Development Review Board submittal the developer shall submit photometric analyses of exterior lighting, which shall conform to the IES illumination level recommendations, to the satisfaction of Project Coordination staff.

5. **BOULDERS AND BEDROCK OUTCROPS.** With the Development Review Board submittal, the developer shall submit a plan identifying all boulders larger than four (4) feet in diameter and all bedrock outcrops.
6. **NON-PROTECTED NATIVE PLANTS.** Native plants which are not protected by the Scottsdale Revised Code native plant provisions, but which are necessary for on-site revegetation, are suitable for transplanting, or are necessarily uprooted for road building or similar construction, as determined by city staff, shall be stockpiled during construction and shall be replanted in on-site landscape areas by the developer before the final site inspection.

CIRCULATION

1. **STREET CONSTRUCTION AND DEDICATION.** Before any certificate of occupancy is issued, the developer, at its expense, shall dedicate the necessary right-of-way and construct the associated street improvements according to the approved Master Circulation Plan as applicable to the ~~golf course~~ development.
2. **MASTER CIRCULATION PLAN.** Prior to any Development Review Board submittal for any site parcels, the developer shall submit an updated Master Circulation Plan for the site, which shall be ~~accepted~~ **SUBJECT TO APPROVAL** by the Transportation Department. The Master Circulation Plan shall address any phased or interim access for the Golf Course and associated clubhouse.
3. **MULTI-USE TRAILS AND PATHS.** Before any certificate of occupancy is issued, the developer shall construct any required multi-use trails and paths as shown in the approved Trails Plan AS APPLICABLE. Trails shall be contained within a minimum 15 foot wide public access easement, which the developer shall dedicate to the city before any certificate of occupancy is issued. The trails and paths shall be designed in conformance with the Design Standards and Policies Manual.

SCHEDULE A-1 DEDICATIONS

Roadway	Street Classification	Minimum Right of Way	Street Improvements	
Hayden Road	Local Collector	25' half	24' BC-BC	A, B

Notes:

- A. ~~Street right of way dedications or p~~ Private street tracts shall include easements for all applicable drainage ways, trails, bikeways, and natural buffers. Statements identifying the ownership and responsibility for maintenance shall be included as part of street dedication.
- B. Cross sections of street improvements shall conform to the current city of Scottsdale standard street cross sections at the time of development except as amended by the approved ~~Amberjack~~ Master Circulation Plan.

1. Public Trails.

Multi-use trails shall be constructed at location determined by the approved Trails Plan. Dedication of the public access easements over the trails shall occur concurrently with final plat or final plans approval of an abutting parcel.

Multi-Use Trail

Minimum Easement

<u>Location</u>	<u>Width</u>
Scottsdale Road Frontage:	15' (within scenic corridor)
Hayden Road: from Lone Mountain to Ashler Hills	15'
Major Site Wash from Lone Mountain to Pima Road within wash corridor	15 MINIMUM', 20' AVERAGE

DRAINAGE AND FLOOD CONTROL

1. **CONCEPTUAL DRAINAGE REPORT.** With the Development Review Board submittal, the developer shall submit a conceptual drainage report and plan subject to city staff approval. The conceptual report and plan shall be in conformance with the Design Standards and Policies Manual - Drainage Report Preparation. In addition, the conceptual drainage report and plan shall:
 - a. Identify all major wash corridors entering and exiting the site, and calculate the peak discharge (100-yr, 6-hr storm event) for a pre- versus post-development discharge comparison of ALL washes which exit the property.
 - b. Determine easement dimensions necessary to accommodate design discharges.
 - c. Demonstrate how the storm water storage requirement is satisfied. Indicate the location, volume and tributary area of all storage.
 - d. Include flood zone information to establish the basis for determining finish floor elevations in conformance with the Scottsdale Revised Code.
 - e. Include a complete description of requirements relating to project phasing.
2. **FINAL DRAINAGE REPORT.** With the improvement plans submittal to the Project Review, the developer shall submit a final drainage report and plan subject to Project Review approval. The final drainage report and plan shall be in conformance with the Design Standards and Policies Manual – Drainage Report Preparation. In addition, the final drainage report and plan shall:
 - a. Demonstrate consistency with the approved master drainage plan and report. Any design that modifies the approved final drainage report for this site requires from the developer a site-specific addendum to the final drainage report and plan satisfactory to the city staff. The addendum generated by the final drainage analysis for this site shall be added to the appendix of the final drainage report.
 - b. Provide final calculations and detailed analysis that demonstrate consistency with the accepted conceptual drainage plan and report.
3. **STORM WATER STORAGE EASEMENTS.** With the Development Review Board submittal, the developer shall submit a site plan subject to city staff approval. The site plan shall include and identify tracts with easements dedicated for the purposes of storm water storage, in conformance with the Scottsdale Revised Code and the Design Standards and Policies Manual.
4. **DRAINAGE EASEMENTS.** Before any building permit for the site is issued, the developer shall dedicate to the city, in conformance with the Scottsdale Revised Code and the Design Standards and Policies Manual, all drainage easements necessary to serve the site.
5. **CORPS OF ENGINEERS REQUIREMENTS.** Prior to issuance of any permits, the developer shall submit evidence that applicable state and federal permits have been obtained. The U.S.

Army Corp of Engineers may require a Section 404 Permit for discharges of dredged or fill materials to washes under their jurisdiction. Contact the Corps' Phoenix Regulatory Office for a jurisdictional determination and further information. Provide the City with a written determination of the 404 status prepared and signed by the Corps of Engineers. Written communication with the State Historic Preservation Officer (SHPO) may be required as part of the 404 Permit process as well as state water quality certification from Arizona Department of Environmental Quality.

WATER

1. POTABLE WATER SYSTEM. With the final improvement plans submittal to Project Review, the developer shall submit a final water plan, subject to Project Review approval. The final water plan shall be in conformance with the Design Standards and Policies Manual, and shall:
 - a. Demonstrate consistency with the approved master water plan and report. Any design that modifies the approved final drainage report for this site requires from the developer a site-specific addendum to the final drainage report and plan satisfactory to the city staff. The addendum generated by the final drainage analysis for this site shall be added to the appendix of the final water report.
 - b. Provide final calculations and detailed analysis that demonstrate consistency with the accepted conceptual water plan.
2. NEW WATER FACILITIES. Before the issuance of Letters of Acceptance by the city, the developer, at its expense, shall provide all water lines and water related facilities necessary to serve the site. Water line and water related facilities shall conform to the city Water System Master Plan.
3. WATERLINE EASEMENTS. Before any building permit for the site is issued, the developer shall dedicate to the city, in conformance with the Scottsdale Revised Code and the Design Standards and Policies Manual, all water easements necessary to serve the site.
4. NON-POTABLE IRRIGATION REQUIREMENTS.
 - A. THIS USE PERMIT IS CONTINGENT UPON THE DEVELOPER SECURING AND MAINTAINING, TO THE SATISFACTION OF CITY STAFF, A RECLAIMED WATER DISTRIBUTION SYSTEM (RWDS) PIPELINE CAPACITY AGREEMENT. BEFORE THE SUBMITTAL OF FINAL IMPROVEMENT PLANS TO PROJECT REVIEW, THE DEVELOPER SHALL COMPLY WITH ALL PROVISIONS CONTAINED IN THE PIPELINE CAPACITY AGREEMENT, TO THE SATISFACTION OF THE CITY STAFF.
 - B. THE DEVELOPER SHALL NOT IRRIGATE THE GOLF COURSE UNTIL A CONNECTION TO THE RWDS HAS BEEN COMPLETED AND IS OPERABLE, AS DETERMINED BY CITY STAFF. PRIOR TO ANY GOLF COURSE WATER DELIVERIES, ALL NON-POTABLE WATER DELIVERY FACILITIES CONSTRUCTED FROM THE RWDS TRUNK LINE IN PIMA ROAD TO THE GOLF COURSE SHALL BE SUBJECT TO APPROVAL BY THE CITY. ALL NON-POTABLE WATER DELIVERY FACILITIES LOCATED AT OR UPSTREAM OF THE FLOW METER SHALL BE LOCATED WITHIN PUBLIC RIGHTS-OF-WAY AND/OR EASEMENTS.
 - C. ALL NON-POTABLE WATER DELIVERY FACILITIES CONSTRUCTED FROM THE RWDS TRUNK LINE IN PIMA ROAD TO THE GOLF COURSE THAT ARE LOCATED DOWNSTREAM OF THE FLOW METER SHALL BE PRIVATELY OWNED AND MAINTAINED. NO VALVES SHALL BE ALLOWED ON THESE PORTIONS OF THE NON-POTABLE WATER DELIVERY SYSTEM.
 - D. PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY FOR THE GOLF COURSE CLUBHOUSE OR ANY OTHER RELATED BUILDING FACILITIES, THE DEVELOPER SHALL COMPLETE CONSTRUCTION OF ALL PRIVATELY MAINTAINED PORTIONS OF THE NON-POTABLE WATER DELIVERY SYSTEM IN ACCORDANCE WITH THE APPROVED ENGINEERING PLANS.

- E. NON-POTABLE AND BACKUP POTABLE DELIVERY SYSTEMS TO THE GOLF COURSE LAKE SHALL BE AIR-GAPPED IN ACCORDANCE WITH ALL APPLICABLE FEDERAL, STATE, COUNTY, AND LOCAL REGULATIONS AND REQUIREMENTS FOR BACK-FLOW PREVENTION.
- F. ALL IRRIGATION WATER DELIVERIES SHALL BE IN ACCORDANCE WITH THE PIPELINE CAPACITY AGREEMENT.
- G. A MINIMUM OF 60 DAYS PRIOR TO THE DELIVERY OF ANY RWDS IRRIGATION WATER TO THE GOLF COURSE, THE DEVELOPER SHALL SUBMIT A WATER BALANCE THAT IS CONSISTENT WITH THOSE SUBMITTED FOR RECLAIMED WASTEWATER REUSE PERMIT NO. R-102633, TO THE CITY OF SCOTTSDALE WATER RESOURCES DEPARTMENT (GREG CROSSMAN, 312-5319), WHICH IS SUBJECT TO APPROVAL BY CITY STAFF. IN ADDITION, THE SUBMITTAL SHALL CONTAIN THE FOLLOWING INFORMATION:
 - (1) GOLF COURSE OWNER
 - (2) GOLF COURSE ADDRESS
 - (3) CONTACT PERSON AND TELEPHONE NUMBER
 - (4) DATE THAT IRRIGATION IS TO BEGIN ON THE SITE
 - (5) TYPE OF TURF AND ACRES OF TURF
 - (6) ACRES OF LOW WATER USE LANDSCAPING
 - (7) ACRES OF OTHER TYPES OF LANDSCAPING
 - (8) COUNT OF SHRUBS AND TREES, LARGE AND SMALL BY SPECIES
 - (9) LARGE = TRUNK DIAMETER GREATER THAN 4 INCHES
 - (10) SMALL = TRUNK DIAMETER GREATER THAN 4 INCHES
 - (11) OTHER TYPES OF LANDSCAPING, BY SPECIES
 - (12) GOLF COURSE LAKE SURFACE AREA AND TOTAL VOLUME
 - (13) SPRINKLER SYSTEM INFORMATION INCLUDING; SPRINKLER HEAD TYPE, MODEL, AND NOZZLE DIAMETER; AVERAGE SPRINKLER SYSTEMS OPERATING PRESSURE(S)
 - (14) GOLF COURSE SOIL TYPES
 - (15) EXPECTED DATES AND DURATION OF OVER-SEEDING
 - (16) ESTIMATED EVAPOTRANSPIRATION RATES AND THE METHOD USED TO CALCULATE
 - (17) SITE SPECIFIC FACTORS WHICH MAY INFLUENCE IRRIGATION DEMAND
 - (18) ONSITE WEATHER STATION DATA (IF AVAILABLE)

WASTEWATER

1. WASTE WATER SYSTEM. With the final improvement plans submittal to Project Review, the developer shall submit a final wastewater plan, subject to Project Review approval. The final wastewater plan shall be in conformance with the Design Standards and Policies Manual, and shall:
 - a. Demonstrate consistency with the approved master wastewater plan and report. Any design that modifies the approved final drainage report for this site requires from the developer a site-specific addendum to the final drainage report and plan satisfactory to the city staff. The addendum generated by the final drainage analysis for this site shall be added to the appendix of the final wastewater report.
 - b. Provide final calculations and detailed analysis that demonstrate consistency with the accepted conceptual wastewater plan.
2. NEW WASTEWATER FACILITIES. Prior to issuance of Letters of Acceptance by the City, the Developer, at its expense, shall provide all sanitary sewer lines and wastewater related facilities necessary to serve the site. Sanitary sewer lines and wastewater related facilities shall conform to the city Wastewater System Master Plan.

3. SANITARY SEWER EASEMENTS. Before any building permit for the site is issued, the developer shall dedicate to the city, in conformance with the Scottsdale Revised Code and the Design Standards and Policies Manual, all sewer easements necessary to serve the site.

ADDITIONAL INFORMATION

PLANNING/DEVELOPMENT

1. DEVELOPMENT CONTINGENCIES. The approved development program may be changed due to drainage issues, topography, NAOS requirements, and other site planning concerns which will need to be resolved at the time of preliminary plat or site plan approval. Appropriate design solutions to these constraints may preclude achievement of the development program.
2. REVEGETATION OF SCENIC & VISTA CORRIDORS. The Development Review Board may approve revegetation of the Scenic & Vista Corridors.
3. BOULDER AND ROCK OUTCROPS PROTECTION. The protection and maintenance of boulder and rock outcrops shall be subject to Development Review Board approval.
4. CITY CONTROL OF ACCESS. The city retains the right to modify or void access within city right-of-way. The City's responsibility to promote safe conditions for the traveling public takes precedence over the stipulations above.

ENGINEERING

1. STREET CONSTRUCTION STANDARDS. The streets for the site shall be designed and constructed to the standards in the Design Standards and Policies Manual.
2. RESPONSIBILITY FOR CONSTRUCTION OF INFRASTRUCTURE. The developer shall be responsible for all improvements associated with the development or phase of the development and/or required for access or service to the development or phase of the development, including but not limited to washes, storm drains, drainage structures, water systems, sanitary sewer systems, curbs and gutters, paving, sidewalks, streetlights, street signs, and landscaping. The granting of zoning/use permit does not and shall not commit the city to provide any of these improvements.
3. FEES. The construction of water and sewer facilities necessary to serve the site shall not be in lieu of any water development fee, water resources development fee, water recharge fee, sewer development fee or development tax, water replenishment district charge, pump tax, or any other water, sewer, or effluent fee which is applicable at the time building permits are granted.
4. CITY CONTROL OF ACCESS. The City retains the right to modify or void access within city right-of-way. The City's responsibility to promote safe conditions for the traveling public takes precedence over the stipulations outlined above.

ADDITIONAL INFORMATION FOR CASE ~~4-UP-1999~~ ~~4-UP-1999#2~~ 4-UP-1999#3

PLANNING/DEVELOPMENT

1. BOULDER AND ROCK OUTCROPS PROTECTION. The protection and maintenance of boulder and rock outcrops shall be subject to Development Review Board approval.
2. NATIVE PLANT PRESERVATION. The owner shall secure a native plant permit as defined in the Scottsdale Revised Code for each parcel. City staff will work with the owner to designate the extent of the survey required within large areas of proposed undisturbed open space. Where excess plant material is anticipated, those plants shall be offered to the public at no cost to the owner in accordance with state law and permit procedure or may be offered for sale.

WATER

~~7. NON-POTABLE IRRIGATION REQUIREMENTS.~~

- ~~a. This Use Permit is contingent upon the developer securing and maintaining, to the satisfaction of city staff, a Reclaimed Water Distribution System (RWDS) Pipeline Capacity Agreement. Before the submittal of final improvement plans to Project review, the developer shall comply with all provisions contained in the Pipeline Capacity Agreement, to the satisfaction of the city staff.~~
- ~~b. The developer shall not irrigate the golf course until a connection to the RWDS has been completed and is operable, as determined by city staff. Prior to any golf course water deliveries, all non-potable water delivery facilities constructed from the RWDS trunk line in Pima Road to the golf course shall be subject to approval by the City. All non-potable water delivery facilities located at or upstream of the flow meter shall be located within public rights-of-way and/or easements.~~
- ~~c. All non-potable water delivery facilities constructed from the RWDS trunk line in Pima Road to the golf course that are located downstream of the flow meter shall be privately owned and maintained. No valves shall be allowed on these portions of the non-potable water delivery system.~~
- ~~d. Prior to the issuance of a Certificate of Occupancy for the golf course clubhouse or any other related building facilities, the developer shall complete construction of all privately maintained portions of the non-potable water delivery system in accordance with the approved engineering plans.~~
- ~~e. Non-potable and backup potable delivery systems to the golf course lake shall be air-gapped in accordance with all applicable federal, state, county, and local regulations and requirements for back-flow prevention.~~
- ~~f. All irrigation water deliveries shall be in accordance with the Pipeline Capacity Agreement.~~
- ~~g. A minimum of 60 days prior to the delivery of any RWDS irrigation water to the golf course, the developer shall submit a water balance that is consistent with those submitted for Reclaimed Wastewater Reuse Permit No. R-102633, to the City of Scottsdale Water Resources Department (Greg Crossman, 312-5319), which is subject to approval by city staff. In addition, the submittal shall contain the following information:~~

- ~~(1)~~
- ~~(2)(1)~~ Golf Course Owner
- ~~(3)(2)~~ Golf Course Address
- ~~(3)~~ Contact Person and Telephone Number
- ~~(5)(4)~~ Date that Irrigation is to Begin on the Site
- ~~(6)(5)~~ Type of Turf and Acres of Turf
- ~~(7)(6)~~ Acres of Low Water Use Landscaping

- ~~(8)(7) Acres of other Types of Landscaping~~
- ~~(9)(8) Count of Shrubs and Trees, Large and Small By Species~~
- ~~(10)(9) Large = Trunk Diameter Greater Than 4 Inches~~
- ~~(11)(10) Small = Trunk Diameter Greater Than 4 Inches~~
- ~~(12)(11) Other Types of Landscaping, By Species~~
- ~~(13)(12) Golf Course Lake Surface Area and Total Volume~~
- ~~(14)(13) Sprinkler System Information including; Sprinkler Head Type, Model, and Nozzle Diameter; Average Sprinkler Systems Operating Pressure(s)~~
- ~~(15)(14) Golf Course Soil Types~~
- ~~(16)(15) Expected Dates and Duration of Over seeding~~
- ~~(17)(16) Estimated Evapotranspiration Rates and the Method Used to Calculate~~
- ~~(18)(17) Site Specific Factors Which May Influence Irrigation Demand~~
- ~~(19)(18) Onsite Weather Station Data (if available)~~

This information will be forwarded to the Arizona Department of Environmental Quality to comply with the conditions of Reclaimed Wastewater Reuse Permit No. R-102633.

ENGINEERING

1. ADEQ RECLAIMED WASTEWATER REUSE PERMIT. The developer shall comply with all conditions and requirements of the City of Scottsdale Reclaimed Wastewater Reuse Permit No. R-102633, issued by the Arizona Department of Environmental Quality. The developer shall comply with any and all other federal, state, county, or local requirements for the delivery and use of reclaimed wastewater.
2. EPA REQUIREMENTS. EPA requires that all construction activities that disturb five or more acres obtain coverage under the NPDES General Permit for Construction Activities. Completion of a Notice of Intent (NOI) and preparation of a Storm Water Pollution Prevention Plan (SWPPP) are required by the EPA. A copy of the NOI must accompany final plan submittal to the city before final plans are approved. Contact Region 9 of the U.S. Environmental Protection Agency, (415) 744-1500 EPA, Arizona Department of Environmental Quality at (602) 207-4574, or at the web site <http://www.epa.gov/region9> . NOI forms are available in the City of Scottsdale One Stop Shop, 7447 East Indian School Road, Suite 100.
3. ~~CORPS OF ENGINEERS REQUIREMENTS. Prior to issuance of any permits, the developer shall submit evidence that applicable state and federal permits have been obtained. The U.S. Army Corp of Engineers may require a Section 404 Permit for discharges of dredged or fill materials to washes under their jurisdiction. Contact the Corps' Phoenix Regulatory Office for a jurisdictional determination and further information. Provide the City with a written determination of the 404 status prepared and signed by the Corps of Engineers. Written communication with the State Historic Preservation Officer (SHPO) may be required as part of the 404 Permit process as well as state water quality certification from Arizona Department of Environmental Quality.~~
3. 4. DUST CONTROL PERMITS. Prior to the start of grading on sites 1/10 acre or larger, a Dust Control Permit (earth moving equipment permit) shall be obtained from Maricopa County Division of Air Pollution Control. Call the county (507-6727) for fees and application information.
4. ~~5. RESPONSIBILITY FOR CONSTRUCTION OF INFRASTRUCTURE. The developer shall be responsible for all improvements associated with the development or phase of the development and/or required for access or service to the development or phase of the development and/or required for access or service to the development or phase of the development, including but not limited to washes, storm drains, drainage structures, water systems, sanitary sewer systems, curbs and gutters, paving, sidewalks, streetlights, street signs, and landscaping. The granting of a use permit does not and shall not commit the city to provide any of these improvements.~~

5. ~~6.~~ FEES. The construction of water and sewer facilities necessary to serve the site shall not be in-lieu of any water development fee, water resources development fee, water recharge fee, sewer development fee or development tax, water replenishment district charge, pump tax, or any other water, sewer, or effluent fee which is applicable at the time building permits are granted.

29-ZN-00#2 & 4-UP-1999#3
WHISPER ROCK

Attachment #7. Citizen Involvement

This attachment is on file at the City of
Scottsdale Current Planning office, 7447 E
Indian School Road, Suite 105.

Wauwie, Kira

From: Tom Elliott [telliott@ccusd93.org]
Sent: Thursday, November 07, 2002 11:51 AM
To: Wauwie, Kira
Cc: John Gordon
Subject: Re: Development Proposal for Whisper Rock master planned community...

Dear Ms. Wauwie,

I have reviewed the information regarding these projects. Based on the information provided we have no concerns specifically regarding school enrollment, facilities planning, or other areas.

Tom Elliott
 Cave Creek Unified School District
 Assistant Superintendent for Administrative Services
 480 - 575 - 2020
telliott@ccusd93.org

>>> "Wauwie, Kira" <KWauwie@ci.scottsdale.az.us> 11/05/02 09:19AM >>>
 Assistant Superintendent Elliot and Ms. Brunson,

I just got off the phone with Debbie and will provide a quick overview of who I am and what I need from your school.

I am a Project Coordination Manager for the City of Scottsdale and I work in the Planning Department conducting land development application analysis and reporting. I need to assess the impacts of the proposed change to the Whisper Rock master planned community, including the proposal impacts on schools. Our records indicate that we sent a letter to you on October 24th but I didn't find a response and called to see what we could do to get some information.

Here is a brief overview of the request:

The property is located at the northeast corner of Scottsdale Road and Lone Mountain Road and extends east to Pima Road.

CASE 4-UP-1999#3 proposes to expand the golf course area by approximately 10 acres that is currently designate for single family residential development with 1-acre lots.

CASE 29-ZN-2000#2 proposes to revise the approved amended development standards and does not propose any new or fewer residential units.

I need to know from the School District whether you have any concerns specifically regarding school enrollment, facilities planning, or other areas. Even if you do not have concerns it is important to hear back from you.

Please understand the importance of our communication, as I need to

11/7/02

ATTACHMENT #8

incorporate your school's interests into a report to our Planning Commission and City Council.

Respectfully,
Kira Wauwie

Kira Wauwie, AICP
Project Coordination Manager
Current Planning-- Planning & Development Services
City of Scottsdale
480-312-7061

11/7/02

PROJECT TEAM:

Developer:

- Scottsdale Development
- Scottsdale, Arizona

Planner:

- B. William Latham Architects
- Scottsdale, Arizona
- Tanager Design Associates
- Scottsdale, Arizona

Engineer:

- Johnson Associates
- Scottsdale, Arizona
- Vignoni Consulting
- Scottsdale, Arizona
- J.A.C.E.
- Arlington Beach, California
- Kinley-Horn & Associates
- Phoenix, Arizona
- Geo-Consultants
- Phoenix, Arizona

Architect:

- Douglas Westbrook Design
- Scottsdale, Arizona

Golf Course(s):

- Phil Leshman
- Scottsdale, Arizona
- The Leshman
- Phoenix, Arizona

Note: This Illustrative Development Plan is for informational purposes only. It is not intended to be used for any other purpose. The Scottsdale Development Plan may be changed at any time without notice or liability.

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[Unsubdivided]

100' Scenic Corridor

State of Arizona
[Unsubdivided]

Trail Head

Shared Use Public Trail

Pima Road

08/23/02
Revised: 12/13/02

Illustrative Development Plan

Whisper
ROCK

▼ GOLF COTTAGE / PCD PLANNING AREA LAND USE BUDGET SUMMARY TABLE

Proposed Use(s)	Existing Zoning	Approx. AC	Approx. U/L	Comments/Remarks
Golf Cottages	R-40	10	30	
Golf Course #2	R-40	27	221	(If no golf is built)
	R-130	126	336	(If no golf is built)
Custom Homes	R-40	43	30	
Total		206	30	With Golf Course (W/O Golf Course)

GOLF COTTAGE PLANNING [PCD] AREA

- Current Golf Cottage Planning Area
- Expanded Golf Cottage Planning Area
- Typical / Conceptual Cottage Location(s)

Note: Boundary of Cottage Planning Area / PCD Area is approximate. Locations of golf cottages are conceptual and subject to change based on more detailed site and environmental analysis. Final locations of cottages to be approved by the City Planning Director per PCD ordinance provisions (Section 6.2.102.C). Scottsdale Development Review Board approval of the site plan and architectural character of the proposed golf cottages is required.

ATTACHMENT #9

29-ZN-2000#2
1/03/03

PROJECT TEAM:

Developer:

- Grayhawk Development
Scottsdale, Arizona

Planning:

- G. William Larson Associates
Scottsdale, Arizona
- Tomorrow Design Associates
Scottsdale, Arizona

Engineering:

- Gilbertson Associates
Scottsdale, Arizona
- Argus Consulting
Scottsdale, Arizona
- P.A.C.E.
Huntington Beach, California
- Kinley-Horn & Associates
Phoenix, Arizona
- GeoDimensions
Phoenix, Arizona

Architecture:

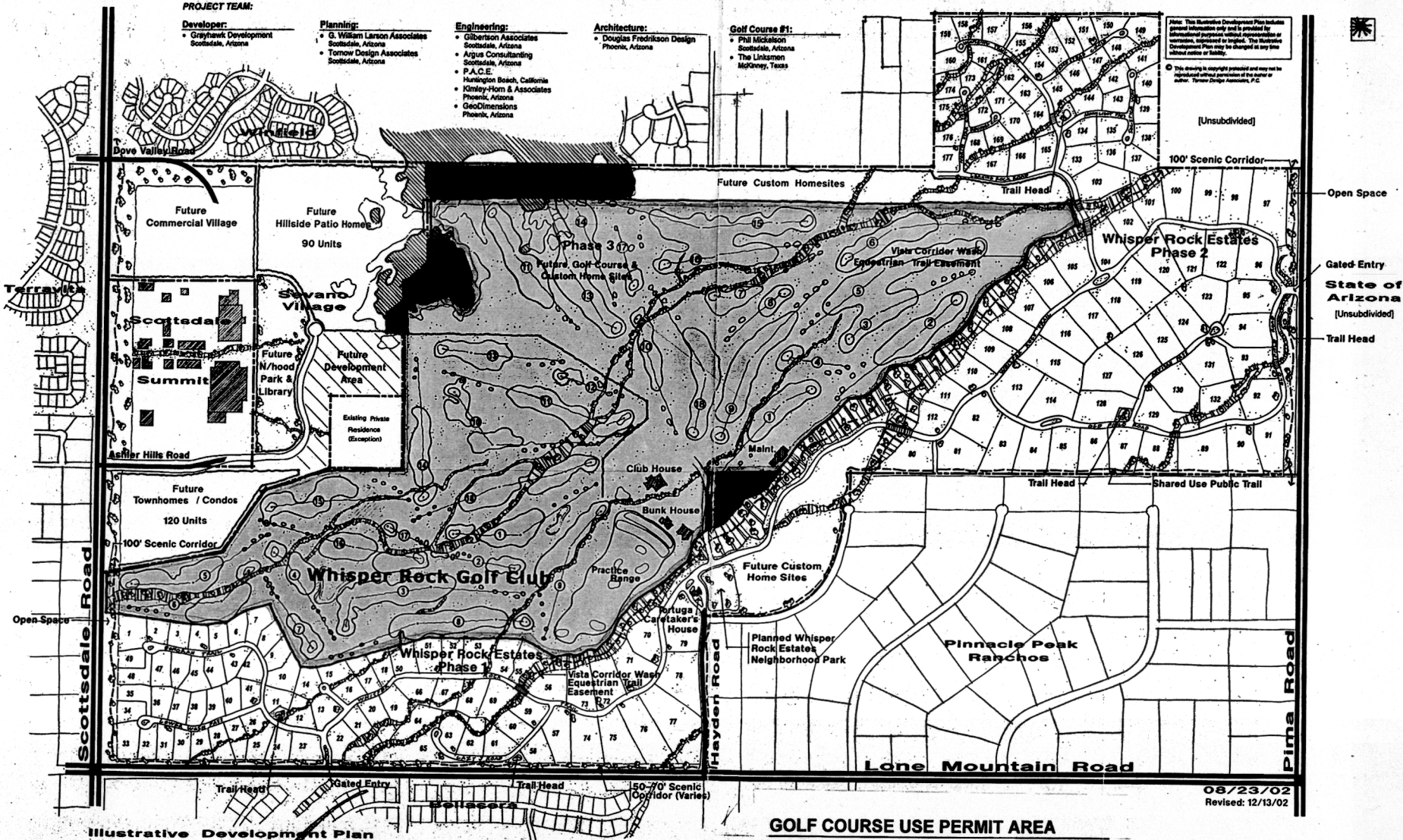
- Douglas Fredrikson Design
Phoenix, Arizona

Golf Course #1:

- Phil Mickelson
Scottsdale, Arizona
- The Linkens
McKinney, Texas

Note: This Illustrative Development Plan includes general information only and is provided for informational purposes only. It is not intended to be used for any other purpose without the express written permission of the author. The Illustrative Development Plan may be changed at any time without notice or liability.

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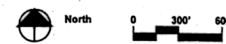
Illustrative Development Plan

Whisper
ROCK

GOLF COURSE USE PERMIT AREA

- Current Use Permit Area
- Expanded Use Permit Area

Note: Boundary of Use Permit Area is approximate. Conceptual design of the second golf course to be reviewed and approved by City staff and the Development Review Board.



08/23/02
Revised: 12/13/02

ATTACHMENT #10

4-UP-1999#3
1/03/03

29-ZN-00#2 & 4-UP-1999#3
WHISPER ROCK

Attachment #11. Development Agreement

This attachment is on file at the City of
Scottsdale Current Planning office, 7447 E
Indian School Road, Suite 105.

SCOTTSDALE PLANNING COMMISSION REPORT



MEETING DATE: February 11, 2003

ITEM NO. _____

GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT

Foothills Overlay

REQUEST

Request to apply Foothills Overlay (FO) zoning to the 10+/- square miles known as the Desert Foothills area, generally located between 56th and 96th Streets, from Happy Valley to Ashler Hills Roads.

25-ZN-2002

Key Items for Consideration:

- Based on the Desert Foothills Character Area Plan
- Implements the Foothills Overlay zoning designation
- Establishes additional zoning restrictions on properties within the area.

Related Policies, References:

The Foothills Overlay was incorporated into the Zoning Ordinance through case number 8-TA-99 in 2001, but was not applied to any properties. The City Council initiated this zoning action through case number 621-PA-2002 in December of 2002.

OWNER

Multiple Owners

APPLICANT CONTACT

Kira Wauwie
City of Scottsdale
480-312-7061

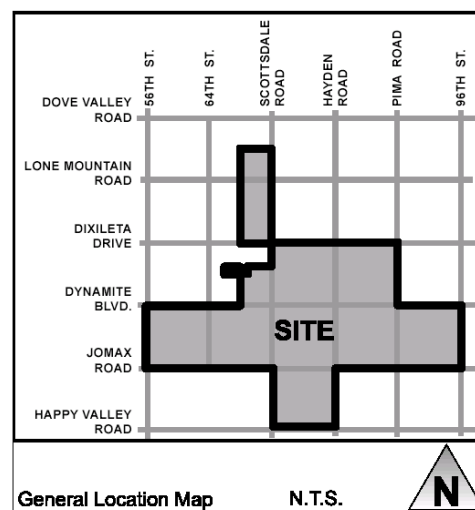
BACKGROUND

History/Context.

This action is a major part of the city's continuing planning efforts in the portion of the community known as the Desert Foothills. The Desert Foothills consists of approximately 10 square miles bounded by Lone Mountain Road on the north, Happy Valley Road on the south, 96th St on the east, and 56th St on the west.

After a two-year neighborhood involvement program, the City Council approved the Desert Foothills Character Area Plan in July of 1999. The goal of that plan was to protect the rural character of the area by lowering building heights and maintaining view corridors across properties.

The creation of the Foothills Overlay Zoning district in February of 2001 was the next step in the implementation of the Desert Foothills Plan. The Foothills Overlay district placed many of the design guidelines from that plan into the Zoning Ordinance. Some of those requirements include:



- Limiting Building Heights
- Limiting Walled Enclosure Areas
- Limiting the Size, Amount and Extent of Accessory Buildings
- Limiting Outdoor Lighting
- Achieving More Sensitive Design

In December of 2002 the City Council initiated this zoning case so that the Foothills Overlay could be applied to the Desert Foothills area. Adding this overlay will not change the underlying zoning categories, but will add new restrictions to the existing zoning.

Zoning.

The area has three residential zoning categories: Single Family Residential District (R1-43, R1-70, R1-190).

General Plan.

The General Plan Land Use Element designates the majority of the area as Rural Neighborhoods, with a smaller portion having the Cultural/Institutional and Public Use designation.

Context.

Most of the surrounding area has similar low-density residential zoning.

**APPLICANT'S
PROPOSAL****Goal/Purpose of Request.**

To apply the Foothills Overlay to properties within Desert Foothills. The Overlay will help to maintain the rural environment in this area.

Key Issues.Existing Subdivisions

When the Foothills Overlay was drafted, the introduction to that section of the Zoning Ordinance discussed existing subdivisions, and said that the overlay was generally not intended for existing subdivisions. That language was included because subdivisions often have amended development standards through the zoning or platting process, and these amended standards could be in conflict with the Overlay.

In this implementation phase of the Foothills Overlay, staff has included the existing subdivisions in the overlay for two reasons. The first is for consistency of regulation throughout the Desert Foothills area. The second is to assure that the implementation of the Foothills Overlay will be similar to other situations where new regulations are added to an existing area. If a subdivision has amended development standards that are impacted by the Foothills Overlay, the amended standards will take precedence. If the amended standards do not address a new regulation in the Foothills Overlay, then the overlay will take precedence.

Implementation

Another question that has arisen is how the Overlay will impact existing development, both inside and outside of subdivisions. Existing buildings and

projects that have building permits will not be impacted by the Ordinance. However, additions to existing buildings and new structures will have to meet the ordinance, unless there is an amended development standard that has precedence.

Community Impact.

This action will help to implement the vision that the residents of this part of the community have for their neighborhood.

IMPACT ANALYSIS

Water/Sewer and Police/Fire.

This action will not impact the density of development allowed by the existing zoning, and so will not result in a change to the number of units allowed in this area.

Schools District comments/review.

Paradise Valley and Cave Creek Unified School Districts have been notified of this application and we have not received any comments from them.

Community Involvement.

Approximately 1500 notices were sent to notify citizens about the three open houses for this case. The notices consisted of a three-page flyer that summarized the Foothills Overlay. Over 65 people attended the open houses, and no concerns about the Overlay were brought up at those meetings. (Attachment #6) Staff has also received a small number of telephone calls regarding this issue. Most of the callers were seeking information, and few expressed concerns.

**OPTIONS AND STAFF
RECOMMENDATION**

Description of Option A:

The Planning Commission could recommend approval of the request.

Description of Option B:

The Planning Commission could choose to continue the case to obtain more information or citizen input.

Description of Option C:

The Planning Commission could choose to recommend denial of the request.


**RESPONSIBLE
DEPT(S)**

Planning and Development Services Department
Current Planning Services

STAFF CONTACT(S)

Jerry Stabley
Principal Planner
480-312-7872
E-mail: jstabley@ScottsdaleAZ.gov

APPROVED BY



Jerry Stabley
Principal Planner
Report Author



Randy Grant
Chief Planning Officer

ATTACHMENTS

1. Applicant's Narrative
2. Context Aerial
- 2A. Aerial Close-Up
3. Land Use Map
4. Existing Zoning Map
5. Proposed Zoning Map
6. Citizen Involvement

Project Narrative

This proposal seeks to place the Foothills Overlay (F-O) Zone on certain properties located in the northern portion of Scottsdale. The F-O Zone is an overlay zoning district and the placing the F-O Zone on these properties will not change the existing zoning that specifies land uses allowed in the existing districts.

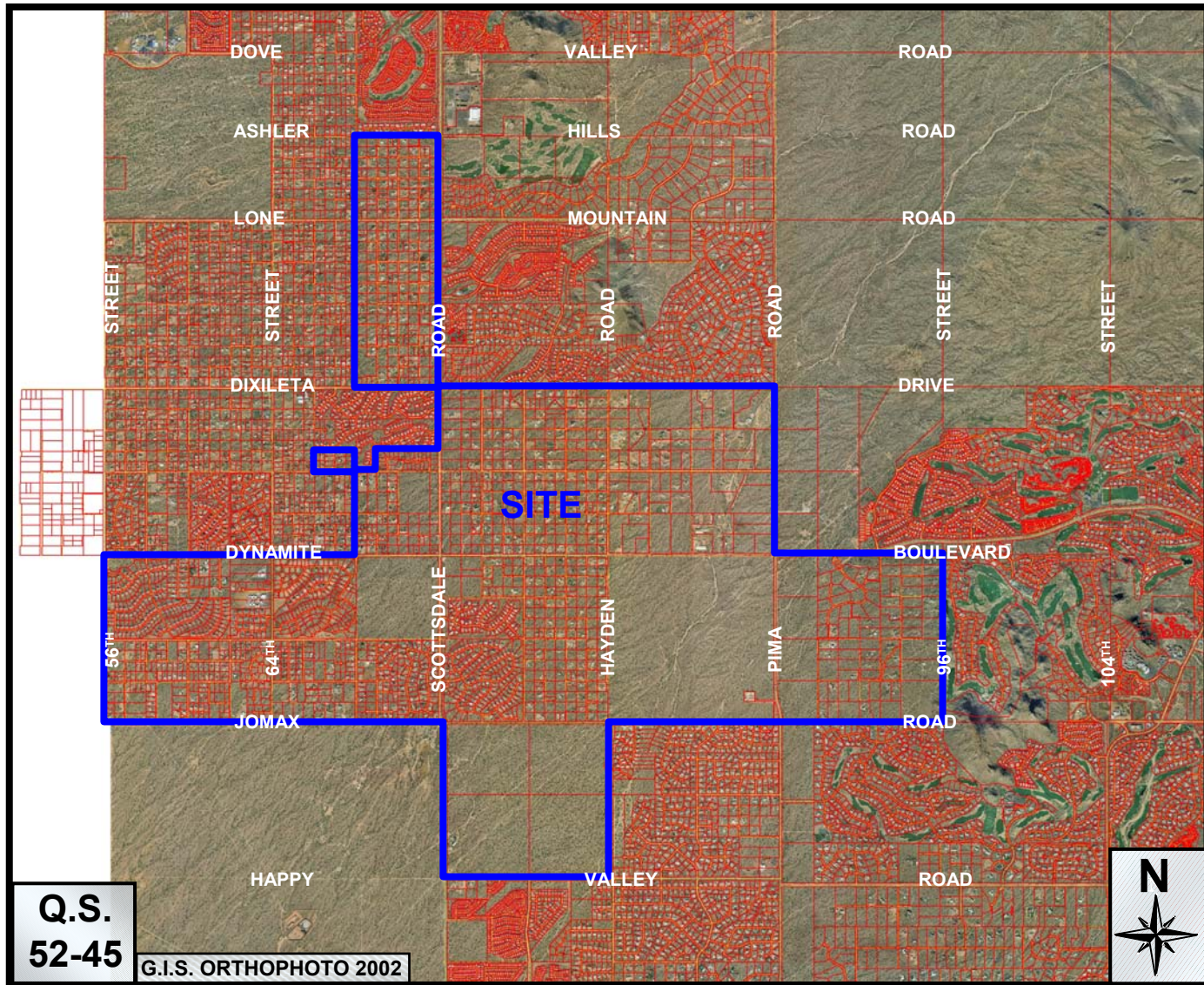
The F-O Zone was adopted in 2001. At this time, the F-O Zone occurs nowhere in any area of the City. During the past several years' subdivision and in fill development has occurred throughout the rural parts of the City and this has changed the character of those rural areas. As additional development pressure is placed on existing and unimproved rural properties, the rural character of Scottsdale might change altogether to have a more urban appearance and style.

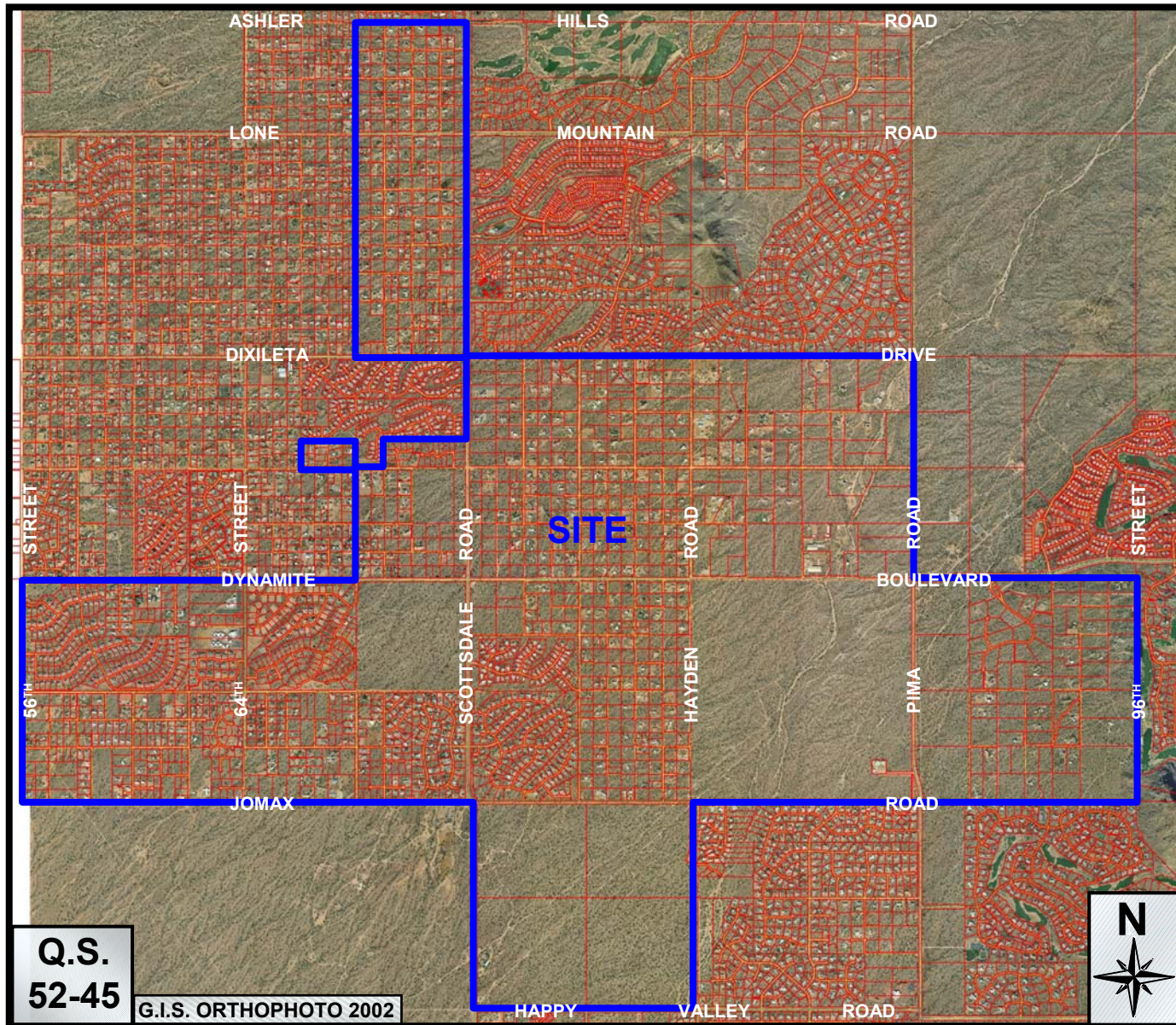
The purpose of the F-O Zone is to "...recognize and further preserve the rural desert character in the low density lands that are generally not within subdivisions to which the F-O district has been applied by defining additional standards that help to define the area's unique character. These standards are intended to result in minimum visual impact for buildings and other improvements and to further the related purposes of the Environmentally Sensitive Lands Ordinance (ESLO) that relate to preservation of the desert and blending the form of buildings into the desert environment."

The F-O Zone does not prevent development but enhances the existing rural character by limiting building height to 24 feet with institutional buildings allowed at a greater height; specifying the location of wall enclosed areas and wall height; limiting lighting; and results in a more sensitive design.

ATTACHMENT #1

25-ZN-2002
12/18/2002



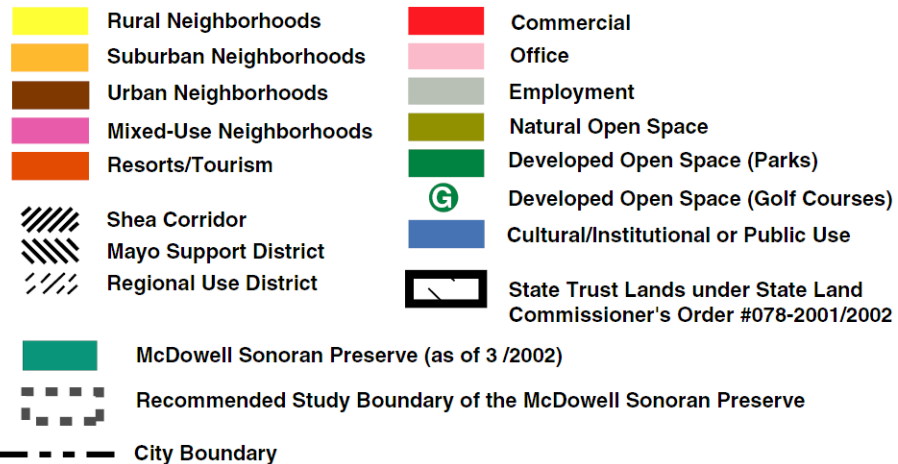
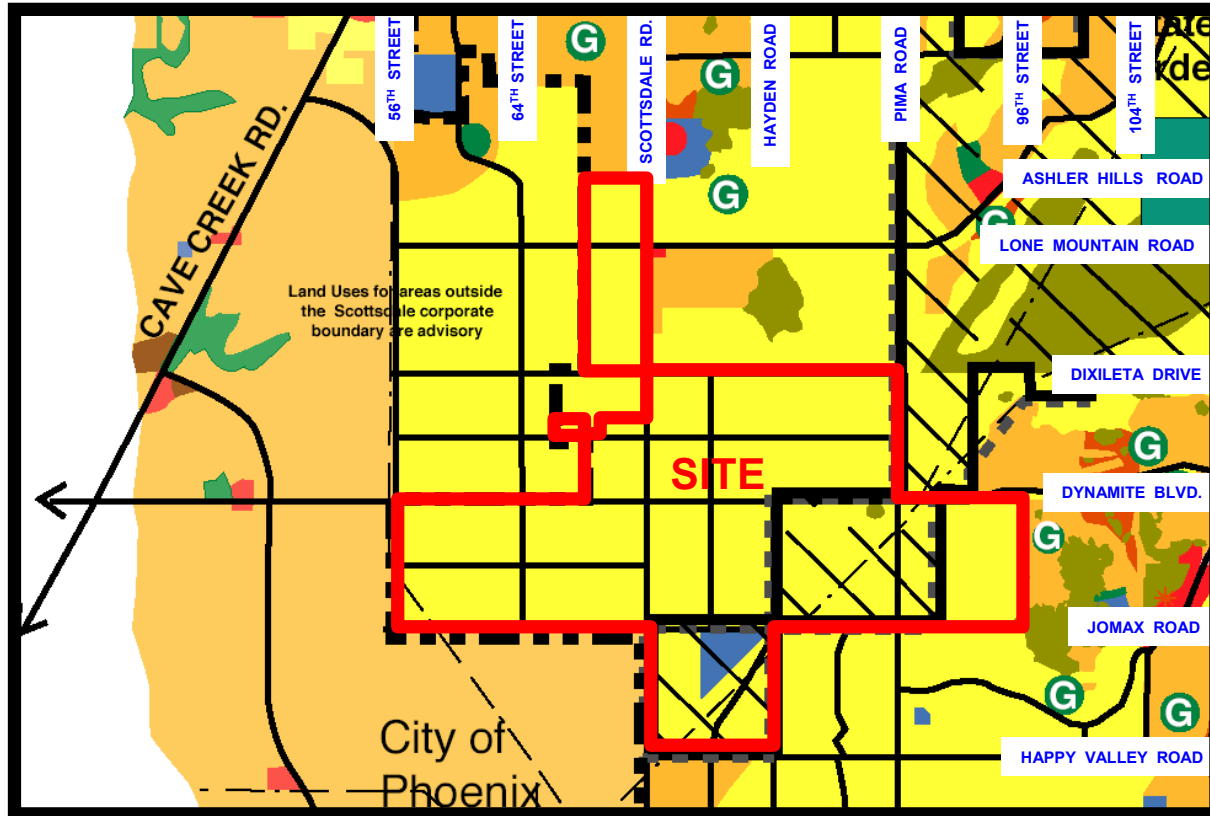


Desert Foothills Overlay

25-ZN-2002

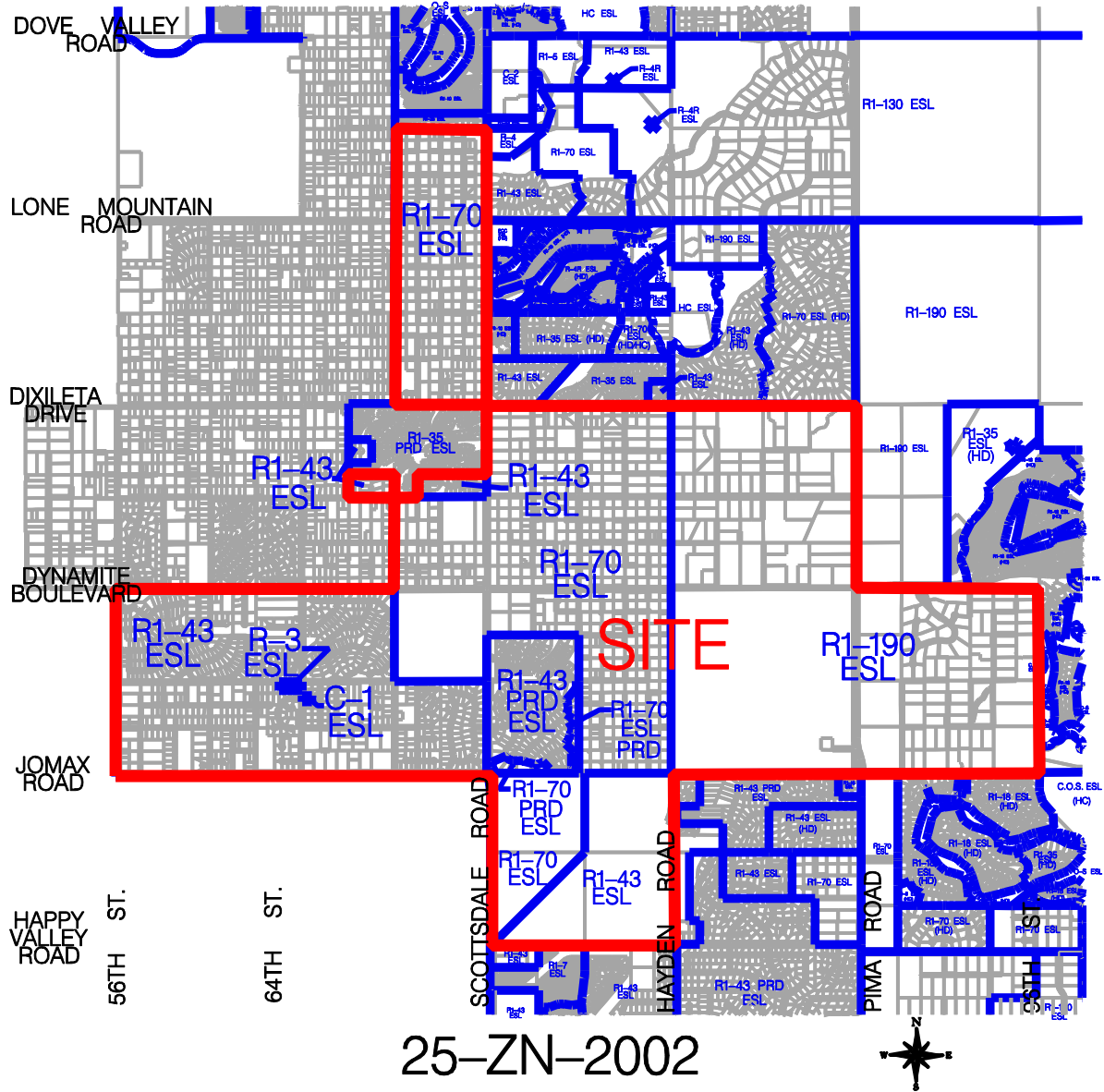
ATTACHMENT #2A

General Plan



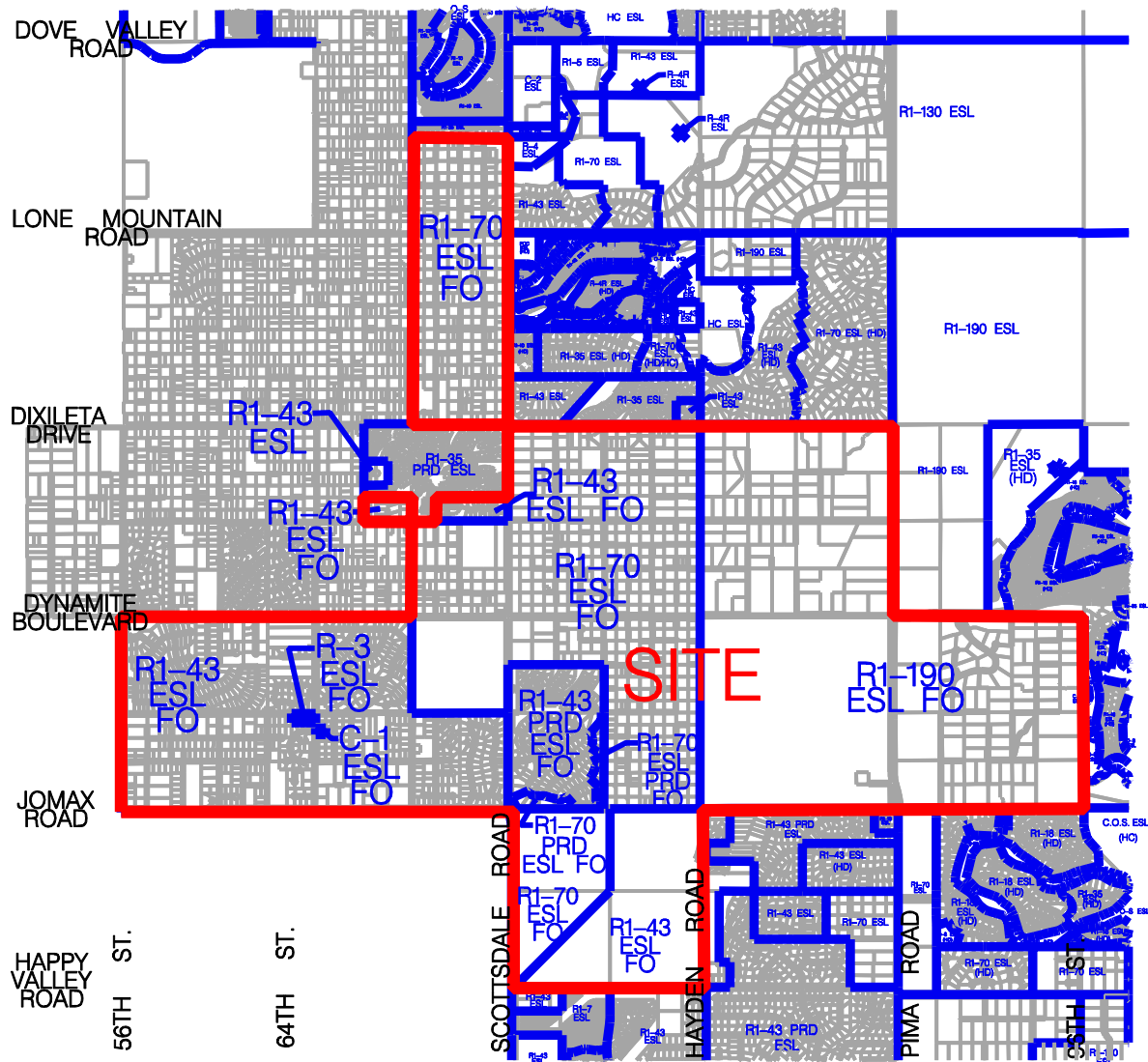
25-ZN-2002
ATTACHMENT #3

EXISTING ZONING



ATTACHMENT #4

25-ZN-2002



25-ZN-2002
Foothills Overlay

Attachment #6. Citizen Involvement

This attachment is on file at the City of
Scottsdale Current Planning office, 7447 E
Indian School Road, Suite 105.